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The development of the Islamic financial tradition in contemporary Britain

a thesis submitted for the degree of
Doctor of Philosophy
in the Department of Religious Studies
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by

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Abstract of *The development of the Islamic financial tradition in contemporary*

Britain by Elaine S. Housby

This thesis considers developments in the provision of Islamic financial products in Britain in the first few years of the twenty-first century, in the light of some important debates about the situation of British Muslims, and of some more general debates within the sociology of religion. The opening chapter considers some of the main issues raised by the literature on British Muslims, and then moves on to outline the Islamic financial tradition. The two central chapters report some examples of Islamic financial activity, dividing these broadly into those related to the problem of *Riba* (fixed interest payment) and those which raise questions concerning *Gharar* (uncertainty and speculation). These chapters are largely based on material produced by the leading Islamic product providers and on media coverage of them. The final Analysis chapter relates this material to the wider theoretical issues outlined in the Introduction. It concludes that developments in Islamic finance present a challenge to conventional assumptions that there is an opposition between Islam and modernity, and to the established debate on secularisation. The activity here documented also undermines the traditional debate on multi-culturalism by demonstrating the creative interchange between Islamic tradition and twenty-first century Britain. The analysis further argues that developments in Islamic finance in Britain during the period studied were the product of factors very specific to the time and place. In particular the government played an important role in promoting these developments, for reasons related to its own political objectives.

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Elaine Housby

10 August 2005

INTRODUCTION

This thesis considers developments in the provision of Islamic financial products in Britain in the first few years of the twenty-first century, in the light of some important debates about the situation of British Muslims, and of some more general debates within the sociology of religion. It could be described as a sociology of Islamic finance in Britain today, and I believe that it may be the first study which has taken this approach to the subject.

In recent years a large number of works on Islamic economics have appeared as an increasing number of Muslim scholars trained in conventional economics pursue research in Islamic interpretations of the discipline. In this regard the work of the Economics Research Unit of the Islamic Foundation at the Markfield Centre, Leicester, is particularly notable. Readers who wish to learn more about Islamic economics would be well advised to contact this Unit. Most of this work is however narrowly technical, and there is as yet very little writing which transcends the disciplinary boundary of economics to consider the phenomenon of Islamic finance in relation to broader social and political questions.

Methodology

This study is mostly based on material available in the public domain, both in printed and online forms. This has been supplemented by some informal personal contacts, which are acknowledged in the text and, where appropriate, listed in the bibliography.

The most important starting point for my research was the *British Muslims Monthly Survey*, a summary of items concerning Muslims in the British national and regional press which was published monthly between 1993 and 2002. I undertook a manual search of the entire run of this publication and copied every item relating in any way to financial matters. A study of these items revealed certain recurrent themes, which formed the starting point for further investigation.

I have been able to make direct use of the regional press in a limited way, through undertaking searches of the online archives of papers local to particular organisations, and by noting relevant articles which happened to be published in a local paper while I was in the area. The termination of the service provided by the *BMMS*, due to funding problems, has been a considerable loss to researchers in the field of British Islam; it would have been helpful to have access to a detailed summary of coverage of the developments with which this study is concerned in the regional press.

I searched the online archives of all the serious national British newspapers, that is the *Financial Times*, the *Daily Telegraph*, the *Guardian*, the *Independent* and the *Times*, for any items concerning Islamic finance. (They are listed here in their order of usefulness, that is, the frequency with which they are cited in this study.) I also searched the entire online archive of the *Muslim News*, the most important newspaper aimed at British Muslims, and undertook a manual search of as many issues as I could find of *Q-News*,¹ a magazine aimed at younger British Muslims. During the

¹ This publication has in the past been unpredictable in its appearance, and it is difficult to be sure whether a library's run of copies is complete.

period of research I held a subscription to the web version of the *Financial Times*, which enabled me to constantly monitor items on new developments in the field. Naturally I also continued to keep an eye on the other broadsheet newspapers for relevant material, and on the BBC News website. I was on the mailing list of the Muslim Council of Britain, so that I received its newsletters and press releases, and I monitored regularly some Muslim-oriented websites, notably www.salaam.co.uk which is predominantly a discussion forum for younger British Muslims.

I endeavoured to keep abreast of all new developments in Islamic finance in Britain until 30 June 2005. There was a great deal of activity in the field during the period of my research, which made the task of keeping up to date a demanding one.

I have made extensive use of material produced by product providers themselves, which is sometimes known as “grey” literature. This is all listed in the bibliography. Some of this was sent to me in response to written requests for information and some was simply picked up, for example in bank branches. I have adopted a critical approach to this material, being aware that it is produced primarily for marketing purposes.

At an early stage of my research I considered basing the study on interviews with people working in the field of Islamic finance, but decided against this approach for a number of reasons. Firstly, there were a number of practical constraints of time and money on undertaking the number of interviews which would have been necessary. Secondly, I decided that due to the commercial sensitivity of much of the

information I would have liked to obtain, interviews were unlikely to generate enough useful material to justify the time and expense involved. The large banks are particularly careful to manage the information which they release, and so any representative authorised to speak to me would probably only have repeated statements which had already been made to the press, or which I could have obtained equally well by correspondence.

Most importantly, I felt that a study based essentially on printed material made the best use of my particular strengths as a researcher. In the discipline of Religious Studies work based on interviews is the most common type of study, which is in itself an argument for doing something different. My hope is that the value of my analysis lies in its synthesis of material usually considered in isolation.

Structure of the thesis

This opening chapter considers some of the main issues raised by the literature on British Muslims, and then moves on to outline the Islamic financial tradition. Perhaps it would be useful to explain at the outset that this tradition consists of far more than the Quran, the foundation of Islam. It is a compilation of jurisprudence which has been built up over centuries by Islamic scholars, known in Arabic as *fiqh*. This scholarly activity still continues today, responding to new questions. Zubaida (2003) has demonstrated that the process of generating jurisprudential decisions has never taken place in an ideal world of scholarship removed from the pressures of those with mundane influence. The articulation of Islamic law has always taken place within a relationship with power.

The two central chapters consider some examples of Islamic financial activity, dividing these broadly into those related to the problem of *Riba* (fixed interest payment) and those which raise questions concerning *Gharar* (uncertainty and speculation). This material was collected between the autumn of 2001 and the summer of 2005 and is deliberately presented as a record of a specific period. It will quickly become out of date, but to have attempted to make the study less chronologically limited would have weakened its value as an exploration of the development of Islamic finance in a particular time and place. The final *Analysis* chapter relates this material to the wider theoretical issues outlined in the *Introduction*.

THE CONTEXT

Some main themes and debates within the literature on Muslims in Britain²

Are Muslims a group?

The most obvious question which needs to be addressed before proceeding further is whether it is justifiable to treat Muslims as a distinct group at all. Since this study is concerned with Islamic teachings on finance, it does not need to justify the choice of Muslims as a category as much as some other studies which are less concerned with explicitly religious factors. It does though seek to remain alert to the factors which are reinforcing the use of terminology which implies that Muslims are a discrete and homogenous group who can be assumed to behave in certain ways.

² An excellent general introduction to the literature on Muslims in Britain is Humayun Ansari, *'The infidel within': Muslims in Britain since 1800* (London: C.Hurst & Co., 2004), which has quickly become the standard introduction to the subject. Ansari's comprehensive references can be used as a starting point for further reading. An often cited work by Philip Lewis, *Islamic Britain* (London: I.B. Tauris, 1994), is a solid study of the Muslim community of Bradford; the title is misleading and has probably contributed to the tendency to make unwarranted extrapolations from events in Bradford to Britain as a whole. The bulk of the work on British Muslims takes the form of ethnographic studies of particular communities, for example: Muhammad Anwar, *The myth of return: Pakistanis in Britain* (London: Heinemann, 1979), which is concerned with Rochdale; Stephen Barton, *The Bengali Muslims of Bradford*, (Leeds: University of Leeds, 1986); Alison Shaw, *A Pakistani Community in Britain* (Oxford: Blackwell, 1988). Fred Halliday's study of Yemenis, *Arabs in exile* (London: I.B. Tauris, 1992), is a rare example of a book about British Muslims of other than South Asian origin. Useful collections of papers are: Colin Clarke et al (eds.), *South Asian overseas: migration and ethnicity* (Cambridge: Cambridge University Press, 1990); Stephen Vertovec & Ceri Peach (ed.), *Islam in Europe: the politics of religion and community* (Basingstoke: Macmillan, 1997). The "Rushdie affair" of 1989 marked a turning point in the relations of British Muslims with the wider society and has attracted much scholarly attention. Malise Ruthven, *A Satanic affair* (London: Chatto & Windus, 1990), gives a summary of events. More recently, academic attention has turned to issues of globalisation and in particular to the implications of the consumption of international media by British Muslims. Notable works in this area are: Saied Reza Ameli, *Globalization, Americanization and British Muslim identity* (London: Icas Press, 2002); Peter Mandaville, *Transnational Muslim politics: reimagining the Umma* (London: Routledge, 2001); Stefano Allievi (ed.), *Muslim networks and transnational communities in and across Europe* (Leiden: Brill, 2003). On the European scale, Brigitte Marechal et al (eds.) *Muslims in the enlarged Europe: religion and society* (Leiden: Brill, 2003) is comprehensive and definitive; it includes a chapter on Britain.

The question of whether it is legitimate to define a social group by religion has now moved out of the shadows of academia to become an intensely controversial political issue. As I write this (22.6.05), the government has just succeeded in the first stage of its attempt to introduce legislation to outlaw incitement to hatred on religious grounds. This legislation is primarily intended to remove the anomaly whereby verbal attacks on Muslims *qua* Muslims are not illegal, while similar attacks on them *qua* Pakistanis, for example, are illegal under the laws against incitement to racial hatred. Jews and Sikhs are regarded under these laws (on rather weak grounds) as being racial groups, so are already protected against abuse couched in religious terms. Political opposition to the proposed new law has focussed on a perceived threat to freedom of speech, which is outside the scope of this study. What concerns us here is the question of whether Muslims can be treated in the same way as a racial or ethnic group.

Some Members of Parliament suggested that one solution to the problem might be to treat Muslims as an ethnic group in the same way as Jews and Sikhs, so that they would be covered by the existing law and the wide scope of the new legislation, which some found worrying, could be avoided. The Muslim Council of Britain reacted indignantly to this suggestion (MCB press release 8.4.05), emphasising that “Muslims transcend racial boundaries”. The academic literature on race and ethnicity does not treat the two as synonymous, and some of it (for example Rex 1986) emphasises that definitions of ethnicity are usually based on characteristics attributed by outsiders, rather than on “primordial” or objectively verifiable characteristics. Poulter (1999 pp. 289-90) has described how British colonial administrators in India treated Sikhs as a separate group for their own strategic

reasons, and how this has left a legacy in Britain of readiness by the courts to regard Sikhs as a clearly discrete ethnic group in a way in which they were not traditionally regarded in India. It might therefore be possible to construct a reasonable case for treating Muslims as an ethnic group based on cultural similarity, culture here being narrowly defined as religion. The equation of ethnicity with race in the popular mind, however, means that this approach to the problem is probably doomed to failure.

The main argument against outlawing criticism of a religion, even vitriolic criticism, is that religious faith is an elective affiliation, that is, one has chosen to be Muslim or Roman Catholic, and so should be prepared to defend one's faith if necessary against attacks by those who do not share it.³ Countering this is the evidence that the great majority of people remain within the faith into which they are born, and have never actively chosen it, they inherit an identity as Muslims or as Catholics and therefore experience an emotional attachment to it which they are entitled to have protected.

Rex (1986) argues that membership of a group, even one which cannot be unambiguously demarcated on any objective grounds, becomes nevertheless "real" if that group is regarded as inferior and in some way dominated or discriminated against by another social group. In this case membership of the group is ascribed by others and treated as a negative characteristic, but those who are ascribed to it may then accept its existence but strive to invert the negative characteristics attributed to it, instead promoting membership of it as a source of pride. Rex is thinking

³ This view of religion as a purely elective affiliation lies behind the "rational choice theory" of religion, the leading exponent of which is Laurence Iannaccone. His recent work is available on www.econpapers.repec.org.

particularly of the racial categories of apartheid South Africa, but this account has some relevance to the situation of Muslims at the present time. Khosrokhaver (1997) documents this process of inversion among young people of North African descent in France, who feel themselves to be socially marginalised and discriminated against because they are at least nominally Muslim, and so assert in opposition to this an Islamic identity which is a source of pride. It seems reasonable to suppose that the same process is occurring in Britain.

Until about twenty years ago, studies of South Asian immigrants to Britain categorised them by nationality or ethnicity and not by religion. For example, Anwar (1979) devotes one chapter of his study of immigrants in Rochdale to religion, conceived as merely one aspect of life and not the most important one, and always refers to his subjects as Pakistanis, not as Muslims. Until very recently, popular usage talked of “Asians” (understood as South Asians) and there was little popular understanding of the religious differences between Hindus, Muslims and Sikhs. The “Rushdie affair” of 1989 is usually considered to mark the emergence of “Muslim” as a leading category both of self-identification and of social ascription. (The “Rushdie affair” is very widely discussed in the literature on British Muslims; Ansari 2004 is probably the most convenient summary.)

Most ethnographic studies of British Muslim communities still dutifully rehearse the main themes of the extensive literature on ethnicity (see Küçükcan 1999 for a particularly laborious example). It is tempting to believe that this literature is becoming peripheral to work on British Muslims as they increasingly define

themselves by religion rather than by their parents' national origin. It is though evident that differences between Muslims of diverse national or ethnic origins are still salient, and that in certain circumstances they can become conflictual.

One fault line lies between Arabs and everybody else. Muslims of non-Arab origin (which is the great majority in the world as a whole, as Westerlund & Swanberg 1999 makes clear) sometimes believe that Arab Muslims regard non-Arabs as second-class Muslims, while Arab Muslims sometimes behave as if this were true. In Britain itself, there is a significant division between Pakistanis and everybody else. The numerical dominance of Pakistani Muslims sometimes leads non-Pakistanis to feel that the differences in their own traditional understanding and practice of their religion are ignored or belittled. An important but, by outsiders, little understood tension exists between Pakistanis and Bangladeshis, for reasons connected to the historical process of the emergence of their states. More recently, friction has developed in areas of the country which have received large numbers of recent immigrants between long established migrant communities and recent arrivals, which may be expressed in terms of ethnic hostility. For example, there is apparently increasing tension between Pakistanis and Kurds in Derby (Louise Richards, personal communication 22.6.05).

If we accept that Muslims are a social group in some meaningful way, can we say that they are a group in the Weberian sense (Rex 1986), who have a consciousness of common interests?

Wihtol de Wenden and Leveau's (2001) study of the French equivalent of the successful young Muslims who feature in this thesis, punningly nicknamed *la*

beurgeoisie (*beur* is a slang word for a young person of North African origin), memorably compares them to the Third Estate on the eve of the French Revolution, in the sense of being a group becoming conscious for the first time of its own power. This inevitably reminds us of Marx's formulation of "a class in itself" becoming "a class for itself", that is, the process whereby a class which has an objective existence because of the common interests of its members acquires a subjective awareness of those interests and becomes purposeful in pursuit of them.

It is quite clear that Muslims cannot constitute a class in the Marxist sense, because they are distributed right across the socio-economic scale. Traditionally, Marxist writers have for this reason refused altogether to consider racial or ethnic groups, let alone religious ones, as meaningful social categories. This attitude has been challenged by Gilroy (1987) who cites examples of professional and business people who identify as "Black" aiding protests by disaffected Caribbean youth, with whom they do not appear to share any economic interests, in support of his argument that loyalty to a "Black" identity cuts across socio-economic classes. A similar argument in relation to Muslims has been advanced by Modood, who rejects both the Marxist insistence that only economic class matters and the attempt by race-oriented activists to incorporate Muslims into a common category of "Black" which includes everyone who is not "White" (Modood 1992; Rex & Modood 1994).

Despite the unsuitability of Marxist categories of analysis for a group which identifies as "Muslim", there is some sense in which British Muslims are becoming, in a less rigid Weberian formulation, "a group for themselves". Several factors, which I consider in more detail in the *Analysis*, are pushing them into self-

identification as a group with common interests, not least in resisting discrimination against them as a perceived group.

The question of modernity

Among scholars who study the Arab world, there has long been a debate about the relationship between Islam and modernity; indeed, this has been one of the central theoretical issues in the field. The origins of the debate lie in the period of European colonisation of the Arab world, when Islam was regarded only as an aspect of the traditional culture of the region, and this traditional culture perceived to be an obstacle to modernisation. This rhetorical trope continued to re-appear with modifications for the best part of two hundred years, from the first stages of European colonisation at the end of the eighteenth century, to the Cold War period in the second half of the twentieth century, when the Middle East was regarded as strategically vital to the interests of the United States. A good flavour of what is known as modernisation theory can be obtained from Daniel Lerner's classic work of 1958, *The passing of traditional society: modernizing the Middle East*.

The discursive linkage of Islam with negative aspects of tradition and with everything opposed to industrialism, entrepreneurialism and parliamentary democracy, which were regarded as the defining constituents of modernity, has lingered on in reductive populist forms, and continues to be a noticeable feature of journalistic treatments of Islamic topics. There is perhaps less separation between journalistic and scholarly writing on Islam than can be assumed in other subject

areas, and it is necessary to be on the alert for examples of this reductionism which have managed to creep into serious academic work.

There has until recently been little interaction between scholars working on the Muslim-majority world and those working on European Islam within the discipline of Religious Studies, and some of the latter have escaped the seismic impact of Edward Said's *Orientalism*, which in 1978 changed Middle East Studies for ever. Said's book has led to the word "Orientalist" being used as a shorthand term for a Eurocentric scholarly attitude which sees Islam as inferior to Christianity in its contribution to society and incompatible with a full development of human rights and economic freedoms. This lack of interaction means that it is still possible to make statements about Islam within Religious Studies which would be regarded as "Orientalist" within Middle East Studies.

One of the few writers who forms part of the standard literature on both European Islam and the study of the Arab world is Ernest Gellner. His work is generally regarded more highly within Religious Studies than in Middle East Studies, where he is seen as a "neo-Orientalist". For example, his 1992 book *Postmodernism, Reason and Religion* is a standard text for students of religion but repeats several clichés about Islam being intrinsically resistant to secularisation and inclined to extremism.

The enduring assumption of an opposition between Islam and modernity is profoundly pernicious. It has damaged and distorted the political development of the Muslim-majority world to an almost incalculable extent, and today it continues to

feed the hideous dialectic between radical Islamists and so-called Islamophobes, who both maintain that Muslims can never live happily in Europe. It is one of the aims of the present study to demonstrate that this assumption is mistaken. In the area of finance at least, exciting and positive new forms of Islamic modernity are emerging.

Throughout the history of the Islamic world the religion has proved remarkably able to adapt to widely differing societies without compromising its core principles. The essential tenets of Islam are of great simplicity and yet great profundity, capable of almost infinite articulation and development among the specificities of particular societies at particular times. This is probably true also of Christianity, but the fact is taken for granted in scholarly considerations of Christian societies in a way which it is still not in academic debates on Islam. To borrow the title of Hodgson's classic study, the appearance of lively Muslim communities in Europe is but the latest stage of "the venture of Islam".

It is nevertheless true that the great renaissance in Islamic thought in the nineteenth century was largely a response to the forcible encounter with European culture. The Arab writers known as the Islamic Modernists (Hourani 1962) demonstrated the vitality of Muslim tradition and its ability to consider creatively the new challenges of industrialism and colonialism. One of the most celebrated of these thinkers, the Egyptian Muhammad Abduh, issued a *fatwa* in 1904 which legitimated bank interest. This was very controversial at the time, and was regarded negatively by some sections of opinion as a submission to the European powers as they sought to

transform Egypt in their own economic interests. This association of the rejection of *riba* with resistance to colonialism is still salient at the present time.

The work of present day European Muslims can be seen as a continuation of this tradition of intellectual response to encounter with Europe. Indeed, it is arguable that the project of Islamic modernism is today being more fruitfully pursued in Europe than in the Muslim-majority world, where intellectual vitality has too often been crushed between the dual pressures of indigenous authoritarian governments and Western economic and military domination. This is the explicit view of Tariq Ramadan (1998; 2004), himself one of the most influential of European Muslim intellectuals.

The opposition between Islam and modernity involves not only an essentialist view of Islam but also an assumption that there is something clearly defined and recognisable as “modernity”. This is a questionable assumption, and, ironically, now somewhat old-fashioned. At least as contrasted with Islam, it usually appears to indicate a casual conflation of urbanisation, industrialisation, consumerism and moral permissiveness. These factors have characterised the recent history of the countries which are the main destinations of migrants, but it is becoming increasingly apparent that the relations between them may not always be the same, either in different places or in the same place at different times.

The appearance of financial products which are in every sense modern, in that they make use of the most advanced forms of technology, communications and

advertising, yet are founded on a religious tradition fourteen hundred years old, offers a particularly interesting opportunity to consider the limitations of the assumption of an opposition between Islam and modernity.

Urbanisation

The most essential characteristic of modernity is urbanisation. In his classic study of English working class life in the 1950s, Richard Hoggart (1957 p. 24) relates how in the 1870s his grandmother moved from a Yorkshire village to one of the newly built terraced streets of Leeds and slowly “learned to become a city dweller”. A hundred years later, many people moved from the villages of Mirpur to the same streets and made the same adaptation to urban life. Yet the similarity of these two pioneering journeys is often overlooked, and surprisingly little attention is given in the literature on migration to the fact that for the majority of labour migrants to Britain the change was not only from one country to another but from rural to city life. Unless we believe that the forces of urbanisation somehow operate differently on people of different racial origins, we should expect to find some of the same processes occurring among second generation British Muslims as occurred among the generations who first grew up thinking of industrialised Leeds or Manchester or Birmingham as home and as a natural form of human society.

These cities and their like were and are places of great hardship for some but also spaces of ceaseless creativity, forums of material and intellectual exchange and synthesis. Some of those who grew up amidst the appalling degradation of newly industrialised Lancashire, recorded so vividly in the journalism of Engels and the

novels of Elizabeth Gaskell, fought back and created the trade union movement, the Labour party, the campaign for universal suffrage. Now, a generation of British Muslims who watched their parents endure lives of grinding toil and sacrifice, only to see the jobs which they had moved across the world to take disappear as Britain de-industrialised, is creating new forms of protest and vehicles of self-assertion. We do not seek an explanation for the social activism of the Nonconformist churches in the cities of Victorian Britain in some eternal quality of Christianity. Rather, we recognise that changing forms of religious discourse emerged in response to the need of people living a new kind of life for adequate means of expression of their predicament.

Upward social mobility in Britain is strongly associated with moving to the country and buying land. This was quite alien to the first generation of immigrants from the Indian sub-continent, for whom moving to a city and giving up working the land conferred increased social status. It is possible that subsequent generations of South Asians may adopt the values of the wider society and aspire to country cottages, but at present the harsh reality of agricultural labour in a Pakistani village is still close enough to sustain a positive valuation of the British city and the complex economy which makes it possible.

The question of post-materialism

One of the factors which I listed as being normally included in the term “modernity” is the society of mass consumption. In recent years this has developed beyond the type of consumption regarded as modern by the writers of the post-war period into a

society dominated by the power of global brands (memorably described in Naomi Klein's book *No Logo*, which was widely regarded as having captured the *zeitgeist* of the year 2000), now often confusingly referred to as post-modernist.

Inglehart's (1997) thesis that the developed world has also become "post-materialist" has been widely diffused. He argues that personality and attitudes are essentially formed in our pre-adult years, and do not fundamentally change thereafter. There is thus a time lag between changing economic conditions in a society and the corresponding change in attitudes which they create, because only when the generation that has grown up with the changed conditions reaches adulthood will the new attitudes become socially dominant. The particular changes in which he is interested concern the achievement of a level of affluence and material security which frees people from needing to worry about where their next meal is coming from to worry instead about such fairly abstract concepts as self-fulfillment and social justice.

This theory of inter-generational change in values fits extremely well with the situation of British Muslims. The experiences of migrant parents and British-born children have been profoundly different, and so we would expect the change in attitudes and values between the two generations to be great. Some younger British Muslims appear to display attitudes which Inglehart would describe as post-materialist, and this would explain some aspects of reversion to traditional Islamic financial teaching, such as a refusal to accept interest payments and increased willingness to make large *zakat* payments. There is however an important question

mark over whether Muslims in Europe can ever really feel completely secure in the way Inglehart describes, or whether the enduring need to be more concerned both for their personal safety and for their chances of obtaining employment than the majority population has to be will preclude the emergence of a truly post-materialist generation.

Inglehart is not the only person to whom this issue has occurred. For example, Heilbroner (1991 p.319) ends a straightforward account of the work of the major economic thinkers by speculating that Adam Smith's celebrated model of calculating man, motivated always and only by concern to maximise his economic self-interest, may have been an accurate description of the behaviour of most people in the poverty-stricken conditions of Smith's own time, but can no longer be assumed to be true of everyone in our own post-scarcity society, where most of us can afford not to maximise our gains on every single transaction. If it is no longer a safe assumption, he says, then the bases of economists' calculations may need to change considerably.

What has become of the second generation?

It is valuable in this context to take a wider view of developments in religious activity and belief today. The study of Islam has often suffered from being considered too much in isolation from other religions. Some of the activities of young Muslims are not dissimilar to those observable among the followers of what are generally called New Religious Movements. Both the entirely new forms of religion, such as neo-paganism, and more recent developments in historic religions such as Christianity, are characterised by a rejection of traditional authority and an

emphasis on making up one's own mind (Hervieu-Léger 1999). They tend to seek an immediacy and authenticity of emotional response. They usually promote increased participation by women and a generally egalitarian approach to organisation. All of these trends can be observed among young European Muslims.

Those involved in pioneering Islamic finance might appropriately be called the organic intellectuals of British Islam. Werbner (2002) discusses extensively the concept of a "buried intelligentsia" among British Pakistanis, who have great influence within their own community but are virtually invisible to and ignored by the wider society. The younger generation of British Muslim intellectuals studied here are no longer buried, they have achieved visibility.

The highly educated and successful people involved in the projects studied here are sadly far from being typical of Muslims in Britain, many of whom are suffering from very high levels of unemployment, poverty and poor housing (Modood et al 1997). I do not in any way wish to minimise the extent of disadvantage faced by many migrant communities, including Muslims, but the harsh reality is that the truly wretchedly poor do not have much impact on the political life of their country. If they riot they may bring about a short-term increase in public funds to "regenerate" their neighbourhood, but they are not able to have a sustained input into public policy or commercial decision making.

The results of the 2001 census show that the population of British Muslims is a very young one. Just over half of them are under the age of 25, and a third are children. This indicates that in addition to the proportion of Muslims who were born in Britain

naturally rising until it approaches a hundred per cent (depending on course on what policies are pursued by future governments regarding further immigration), the total number of Muslims in the country is likely to increase as this large cohort of young people have children of their own. This will certainly be true if Muslim women continue to have higher birth-rates than the majority population, or at least continue to have more than two children each, but this may not be a safe assumption, as it is generally observed that the fertility patterns of immigrants begin to conform to those of the host society by the third generation, and the reproductive rates of the majority population in most Western European countries have now fallen below replacement level. (Jelen (1991 p.147) reports that in 1982 the average number of children of women of Algerian descent born in France was below 4, compared to the nearly 9 recorded in 1968 for first-generation immigrants.) Nevertheless, the fact of there being a large proportion of children among British Muslims will remain true for some time.

The anecdotal impression that immigrants usually put great emphasis on the education of their children is confirmed statistically by Modood et al (1997), who found that participation in post-compulsory education was higher among all ethnic minorities than among white people. These writers describe it as an investment strategy which has paid off. First generation migrants make financial sacrifices to enable their children to remain at school and attend college, for which they are rewarded when their children gain good qualifications and enter lucrative professions. Basit (1997) found that the Muslim teenage girls and their parents in her study had strong aspirations towards the girls achieving professional qualifications, despite the parents themselves mostly being engaged in manual work, and that

teachers sometimes found this puzzling because they were accustomed to white working-class children not aspiring to rise above the occupational level of their parents. This investment strategy, when pursued successfully, results in rapid upward social mobility for families of immigrant origin. One interpretation of this would be that even though a large proportion of Muslims are still living in poverty today, their children may be more likely than young white Britons living in similar poverty to become prosperous.

We should however be cautious about applying this positive interpretation to high levels of participation in education in all cases. There is evidence that in many cases young Muslims are remaining in further education for longer than their non-Muslim peers because they are more likely to fail examinations first time round and therefore need to re-take them. There are also clear signs that young Bangladeshis are doing significantly worse than other Muslims and than the British average (Hussain 2004).

The 2001 census revealed that at present the total number of British Muslims is 1.6 million, or 3% of the population. This in itself is enough to create a significant market for any product, especially since this figure contains a large number of young families, who tend to be the largest consumers of goods and services. The indications that at least a certain proportion of British Muslims are achieving levels of education and professional success which bring with them enough disposable income to attract advertisers are a sufficient explanation of why the conventional banks – who in the nature of their business plan several decades ahead - are beginning to show an interest in Islamic financial products.

It is a remarkable feature of the literature on Islam in Europe that many studies conclude by speculating in very similar terms about the future of the “second generation”. Yet this literature covers a period of some twenty or thirty years, from the mid-1960s to the 1990s, so it is apparent that a generation had in fact grown up in Britain in the interval between the publication of the earliest and the most recent of such books. Increasingly the term “second generation” is no longer accurate, for we are now often talking about a third generation of the British-resident. In the streets of any large city today can be seen British-born Muslim women with their children. Such women belong to the age cohort studied by Kim Knott (1992). This sensitive series of interviews with teenage girls of South Asian origin observed their great capacity for synthesising the totality of their life experiences, reconciling what they learned at school and from their friends of other ethnic origins with the culture transmitted by their parents. Basit (1997) reported similar findings among adolescent British Muslim girls. A careful reading of these studies might have predicted some of the phenomena widely considered puzzling at the present time

In the past it was generally assumed that the second generation would be torn between two cultures and tormented by problems of identity. The earliest writing on the subject (e.g. Huxley 1964) took it for granted that mainstream British life would be more attractive to them than the culture of their parents and that they would therefore have to fight for their freedom from repressive parental expectation. The reality has proved both less gloomy than the predictions, in that British-born Muslims seem less tormented by conflicts of identity than many had expected, and more unsettling for the complacent assumptions of British society. The superiority

of the culture to which their parents emigrated is less self-evident to those who have often felt themselves discriminated against and rejected by it. They are more ambivalent towards its freedoms and less ready to abandon the traditions and religion of their parents than many British observers can understand. This bewilderment is most frequently expressed in relation to young women who choose to wear *hijab*, but the same issues are involved in the resurgence of Islamic finance.

What no one seems to have predicted is that Muslim faith, rather than being jettisoned as part of the unwanted ancestral baggage, would itself become a medium of accommodation to European society. It is apparent that the assertion of a common Muslim identity is one means by which young British Muslims can distance themselves from their parents while outwardly continuing to respect their values. Some of them of course do simply dismiss Islam as irrelevant to their lives, but for those to whom it continues to be important, the rejection of aspects of their parents' traditions as being merely "cultural" and without religious authority provides a strategy for accommodating the realities of life in Britain while presenting themselves as being, if anything, better Muslims than their parents. This sharp distinction between the religious and the cultural is frequently made in publications produced by young Muslims, such as *Q-News* and the *Salaam* web site. The same process has been observed in France, notably by Khosrokhaver (1997).

The sensitive area of marriage provides a good example. Modood et al's (1997) study of the situation of ethnic minorities in Britain found that inter-marriage between Pakistanis and Bangladeshis was almost non-existent. This is illustrated by

one of the young men in Alexander's (2000) study of Bangladeshis in London, who had a long-term girlfriend of Pakistani origin and wished to marry her, but believed that his parents would never accept her. Although he showed no sign of piety in any other aspect of his life, he said that the fact she was a Muslim ought to be the only thing that mattered to his parents. Similarly, Küçükcan (1999) found several Turkish men in London married to native European converts, with the apparent approval of the men's extended families. He concludes that the "in-group" for marriage is now defined by religion rather than national or ethnic origin. It is questionable whether the Turkish parents in his study were really as comfortable with this idea as he claims, but his concept of the extension of the "in-group" among the younger generation is a useful one.

It is clear that a desire to avoid *haram* financial transactions is also part of this broad development of a Muslim identity freed from ethnic specificity and based instead on what are perceived as purely religious values. However it is not enough merely to state that something is part of an assertion of Muslim identity as if this were an end in itself, as some writers, particularly those whose disciplinary alignment is ethnological, tend to do. The maintenance of cultural identity or "group boundary" is not as intrinsically fascinating to the subjects as it is to the academic observer, and there is nothing obvious or self-explanatory about why British-born Muslims should wish to assert this aspect of their heritage rather than any other. In recent years the term "identity politics" has been widely employed to refer, sometimes rather disparagingly, to the manipulation of ethnic and religious identities in the pursuit of certain political ends, often connected with obtaining money and other resources from public agencies. I believe that both the acceptance of identity production as an

end in itself and the dismissal of it as cynically instrumental are inappropriate and have limited explanatory power. The production and maintenance of a Muslim identity is an adaptive strategy, but not necessarily an entirely calculated one.

The issue of transnationalism

This brings us to the next level in this process, the emergence of a transnational Muslim identity. In one sense this is simply a logical development for a British Muslim. If it does not matter whether one's parents came from Pakistan or Bangladesh or Somalia, because one is first and foremost a member of an *ummah* which transcends country and race, then those who still live in Muslim-majority countries are equally part of this transcendent community. Halliday (2002) has drawn attention to the emergence in recent years of a list of place names which function as a kind of litany of suffering. Palestine, Kashmir, Bosnia, Chechnya, Iraq – these names are repeated over and over again on websites, in leaflets, in speeches, until by constant juxtaposition they fuse into a vast condemnation of the non-Muslim world's indifference to Muslim suffering. These are certainly all places where people who happen to be Muslim are or have been suffering greatly, but, as Halliday points out, the problems of each have quite distinct historical causes and require quite separate political solutions. Longstanding observers of British Muslims have confirmed that until quite recently only those with personal or family links with these places showed a pressing concern with events there. Nielsen (1999 pp. 136-7) has described how the Israeli invasion of Lebanon in 1982 produced very little response from British Muslims, while the sufferings of Bosnian Muslims ten years later generated a tremendous reaction from them. He relates that an appeal in the Birmingham central mosque for the families of victims of the Sabra and Shatila

massacres in 1982 generated a rather small amount of money and very little interest thereafter. Today, every report of a Palestinian death galvanises Muslims throughout Britain.

This is partly due to technological developments which have greatly improved the speed and ease with which news of global events can be accessed. It is important not to become hyperbolic about the impact of the internet, but it is equally important not to under-estimate it. There are good reasons why Israelis and Palestinians spend time trying to crash each other's websites. The internet is however only useful to those who are educated enough to contribute to it and prosperous enough to have a computer, electricity and a telephone line. These things are impossible luxuries to many in Muslim-majority countries, but Muslims in the developed world benefit from high levels of both education and standard of living. This affects their attitudes as well as their technology. The globalisation of compassion and concern is also a luxury, in that those who are struggling for personal survival cannot spare the time and energy to worry about the sufferings of those in a distant country.

An important constraint on globalisation is the dominance of the English language in global media. Naturally, non-English writers are more aware of this problem than are those who write in the global language. The French activists of North African origin studied by Wihtol de Wenden and Leveau (2001) work in French and Arabic, but neither of these give them access to the international debates taking place in English. It does though make them part of the international Arabic language arena

which is a very important factor in global politics today, and which is sometimes neglected by those to whom globalisation is synonymous with speaking English.

Ameli's (2002) study is one of the first to take the issue of the globalisation of British Muslim identity as its main topic. He produces some interesting data on the television viewing habits of young Muslims in London. One very suggestive finding was that, in addition to having access to a greater number of channels, his subjects appeared to watch television for more hours per week than the majority population. He mentions in passing that this may be due to the greater restrictions on their social life, but unfortunately does not pursue this. Despite finding that young women use email more than young men, he makes the unwarranted assumption, not backed by any hard data, that they watch less television than men because they are busy doing housework. It seems at least as likely that young Muslim women are in fact watching more television than their non-Muslim peers, because they are not permitted to engage in many social activities outside the home, and are thus heavily influenced by it. Ameli finds that, furthermore, British Muslims frequently watch satellite channels based outside their country of residence, and this clearly has important implications for the kind of Islamic consciousness which they develop.

Transnationalism is not though a completely new phenomenon. In this aspect of their lives young British Muslims are not breaking with their parents but building on a way of life they inherited. Several writers (Werbner 1990 and 2002; Cesari 2002; Allievi and Nielsen 2003) have emphasised the importance of international networks of kinship and business interests to migrants. This has been an essential factor in the

business success of many South Asians. It has given immigrants and their descendants a dimension to both their work and family lives which is entirely unknown to most indigenous Britons. They were transnational long before the term became fashionable.

In recent years this concrete network of personal contacts has been conceptually expanded to include a more abstract network of contacts which are only virtual, or imagined. It may even be the case that for younger Muslims, as their parents' country of origin becomes increasingly remote and unreal, this virtual network is coming to serve as a substitute for the tangible connections of their parents. The family village in Pakistan may be experienced as boring and unappealing (Joly 1995), but any nagging feelings of guilt this produces can be offset by a passionate commitment to the Muslims of Bosnia.

I believe that the current success of international Muslim aid agencies is partly explained by this. The "litany of suffering" is particularly well developed in their publicity materials. This is not to belittle the value of the work they do, merely to point out that they are in tune with the attitudes of those who are most likely to donate to them. The British-based agencies are located at an interesting and productive intersection of global awareness and local culture. They have thrived on the British tradition of legal, fiscal and social support for charities. Islamic Relief runs fundraising shops selling second-hand goods which would not look out of place on any high street in the country. Within this Muslim development of a venerable British institution, the cause of the *ummah* is promoted.

The emergence of transnational forms of identity and behaviour as a central theme of developments among European Muslim communities has radically modified the established debate on multi-culturalism. Starting from the assumption that Western European countries now contained discrete communities of immigrants with cultures substantially different from those of the host societies, the main argument was whether the most appropriate strategy for the governments of those societies was to enforce integration at an individual level and refuse to recognise claims to maintenance of communally focussed cultural forms– a policy usually associated with France – or to permit and indeed encourage the continued identification of immigrants with ethnic and religious groups – a policy usually associated with Britain and valorised as “multi-culturalism”.

The promotion of cultural diversity is normally regarded in Britain as the liberal approach and associated with the political Left, but it is salutary to be reminded, most trenchantly by Kepel (1997), that this policy is susceptible of a more negative interpretation – that it is a continuation of the strategy of “divide and rule” which enabled Britain to maintain its empire for so long. More specifically, it is an application to migrants from the Indian sub-continent of the communitarian policies which reinforced ethnic division and conflict in British-ruled India.

As the years have gone by, the assumption on which the debate on multi-culturalism is based, that of the existence of culturally distinct communities within one nation, has come to look increasingly untenable. It is evident that to regard people who have

been educated entirely within the English state system as having a separate “culture” in the same way as their immigrant parents did is both contrary to common sense and an obfuscation of the truly interesting questions about how cultural heritage is transmitted and transformed.

New answers to new questions

One of the factors impinging on this process of cultural transmission and transformation is, of course, the appearance of new problems to be dealt with. The decision on whether or not to take out a mortgage for house purchase is forced on Muslims (and for that matter everybody else) today in a way that it was not on their parents. In the early 1960s it was fairly common even for indigenous British people to buy a house outright. (My own parents, who had a fairly modest income, did so in 1960.) For immigrants this was the most common solution to the housing problems they faced. At that time they were excluded from council housing, because local authorities normally required a minimum period of residence in the area before becoming eligible for their housing. These residence qualifications were removed by most local authorities in the 1970s, which is one reason why Bangladeshis, who mostly arrived in Britain in that decade, are more likely to be living in council housing today than Pakistanis, who mostly arrived earlier (Robinson in Clarke et al 1984). Huxley (1964) refers to one immigrant as being involved in “paying off a loan” for a property as if it were unusual, and, paradoxically, a sign of economic success. Concentrated as they were in areas of old housing stock considered undesirable by the native population, where prices were low, and aided by very tightly knit social networks in which fellow migrants co-operated to pool their resources, they could often manage to raise the purchase price of a house.

The mechanism by which this was achieved is referred to in several studies; one of the clearest descriptions is given by Halliday (1992) in his study of Yemenis. He says that a typical house at the period of primary immigration cost £1,000. A group of ten people (at that time all single men) would club together to save £10 per week each. Thus in ten weeks a total pool of a thousand pounds was available, and would be used to purchase a house for the first member of the club. All the members would then continue to save until ten weeks later another house could be bought, and so on. The new owners of the houses would usually rent out the spare bedrooms to other Yemenis, thus further increasing the funds available. Recent surveys (Modood et al 1997; Census 2001) show higher levels of home ownership among some migrant groups, particularly Pakistanis, than among the white population, but also indicate that many of these houses are in very poor condition. This is a legacy of this strategy of the first generation.

While pooled savings schemes are still common among South Asian and other migrant communities, it is evident that the obstacles to saving the full price of a house today are formidable. Only in the most desolate and abandoned of de-industrialised towns might this still be possible, and Muslims have no more desire than anyone else to live in such areas. They are now obliged to borrow money for house purchase, or continue renting indefinitely. This, then, is a problem which is in no sense traditional but has emerged in recent years as a result of the soaring property market in contemporary Britain.

Many migrants came from under-developed countries and regions with almost no banking system as we understand it today. Halliday (1992) describes the elaborate procedure migrants were obliged to adopt in order to send remittances to their families in rural Yemen. Since there were no formal banks nearby, a local agent would, in exchange for a small commission, undertake to collect the wired money orders, convert them into cash and then travel around the region delivering the appropriate sums to each family. The only opportunity for impropriety arose in the temptation for the agent to retain more of the money than had been agreed, and this was readily detected by correspondence between the families and the migrant workers. No issues of *riba* or other *haram* transactions arose, while the complexities of the modern stock market could not even be imagined. The situation was similar in many of the regions of South Asia from which the majority of Muslim migrants came. While it should be remembered that some immigrant groups had urban business backgrounds, this does not invalidate the point that the most typical trajectory for a Muslim migrant to Britain was from a world which was financially very unsophisticated to the steadily increasing financial complexity of one of the world's leading economies.

A religion which fails to grapple with newly emerging problems is not likely to retain the allegiance of its adherents. Many imams in Britain have lost the respect of young Muslims precisely because the latter perceive them as never talking about life in Britain today but just dusting down old sermons written in Urdu about life in rural Pakistan. A living faith has to engage with the realities of the lives of its followers, and given the centrality of the house purchase problem in the lives of all Britons, it was inevitable that some Muslims would turn their attention to it. Again, it is

possible that the creation of more formal or businesslike networks of mutual financial aid is to some extent a replacement for the close affective bonds between those of the first generation who came from the same village.

The problem of secularisation

The study of religion in general and Islam in particular is still in the shadow of the so-called secularisation theory.⁴ This refers to the prevailing assumption in earlier work on the sociology of religion that religion would become progressively less significant as industrialisation proceeded, that a rationalist, secular world view would become dominant and leave religious belief as a quaintly anachronistic characteristic of a small minority. The emergence of political Islam as a central factor in international politics has left adherents of this view groping for explanations, and the ones they come up with usually depend on casting the exponents of political Islam as somehow backward; products of undeveloped countries who are incapable of coping with the modern world. Within the paradigm that modernity and religion are incompatible, no other explanation is possible. Yet the evidence, most strikingly that provided by the hijackers of September 11th 2001, is that many radical Islamists are well educated people who work with advanced technology.

⁴ A useful summary of the development of the debate on secularisation is given by Danièle Hervieu-Léger in *La religion pour mémoire* (Paris: Cerf, 1993). This is available in English as *Religion as a chain of memory* (Cambridge: Polity Press, 2000), which has the added benefit of an introduction by Grace Davie, who has been largely responsible for introducing Hervieu-Léger's ideas into the English language debate, and has herself been an important contributor to this debate. Probably the most important sustained body of work on secularisation is that produced by Bryan Wilson. See, for example, "Reflections on a many-sided controversy" in *Religion and Modernization*, ed. Steve Bruce (Oxford: Clarendon Press 1992).

It is now clear that the version of the secularisation theory which assumed that religious belief was incompatible with modern rationalism was flawed. Not only in the Muslim world but across the religious spectrum we see educated, technologically proficient people whose dependence on the rational, scientific world view in their working lives does not preclude their subscribing to apparently irrational religious beliefs in their private lives. In fact, this opposition of rational science and technology to irrational religion has limited value in the twenty-first century. The most important technological developments of our time are in computing and communications, and the more sophisticated these become, the more magical they seem to be. The experience of using the internet, for example, is essentially a magical one, where by performing certain simple routines an incomprehensibly vast amount of information and entertainment appears before the viewer's eyes, through technological means of which the typical user has no understanding at all.

The most flourishing Christian sects in Britain today are those which emphasise the supernatural aspects of the traditional story of Jesus, rather than those which downplay them. Forms of neo-paganism which teach that rituals can produce physical effects attract a surprising number of professional people. Celebrities are seen wearing red threads around their wrists to ward off evil, a practice supposedly derived from a mystical variant of Judaism called Kabbalah. These facts form a vital background to the study of British Muslims, who are often the victims of a prejudice which sees them as peculiarly liable to irrational behaviour.

It is possible that Durkheim himself, one of the founders of the discipline of the sociology of religion, would have been less surprised by this than some of his followers. In *The elementary forms of the religious life* (1915) he comments that the scientific paradigm itself will only prevail so long as people believe in it. It does not have independent authority by virtue of its self-evident truth, any more than religion does. Both require the agreement of society that they are the correct and appropriate source of explanation. Today it seems that significant numbers of people no longer accept science as authoritative, in at least some areas of their lives. Paradoxically perhaps, this very unwillingness to accept the instruction to regard science as the ultimate authority which has been handed down by the dominant institutions of society (the state school system and agents of government), rather than developed in response to the circumstances of the individual's own life, is an example of the modern secular temperament. Younger Muslims, then, can be seen as rejecting the authority of both their parents, who taught them a particular version of Islam, and those social and governmental institutions who tell them that banking can only be done in a certain way, that the charging of interest is an unavoidable fact of economic life and nothing they can do can change that.

The debate about secularisation is closely related to that about modernity, and again, the phenomenon of the development of religiously-oriented financial products can contribute challenging material to it. It provides support for the criticism that the secularisation theory as it has developed within the Western academic literature on religion is excessively Christian-focussed and Eurocentric; that, indeed, it is merely

descriptive of historical events in Europe rather than a robust theoretical explanation with predictive power.⁵

The sociologist Steve Bruce has been closely associated with the continuing debate on secularisation. In his work (see particularly his 1996 book) he charts the decline of the importance and influence of institutionalised religion and the growth of individualist “spirituality”. In his view, the continuing or even increasing interest in spiritual matters does not constitute a refutation of the theory of secularisation, because to him secularisation means a decline in the influence of religious institutions, not a decline in religiosity *per se*. In this he is using the term in a strict sense and one closer to its original meaning. Historically “secularisation” referred to the removal of temporal power and temporal property from the established churches of Europe and the introduction of a constitutional separation of church and state. The French term *laïcité* retains this sense more than the English word. In this sense, the phenomenon of religiously motivated behaviour by young Muslims does not challenge the claim that modern Britain is a secular society. However, the established church in England retains a constitutional role incompatible with the concept of *laïcité*, and it is not in this sense that most English people understand secularisation. Despite this, the often repeated claim that Islam does not recognise any separation between church and state is used to argue that it is incompatible with the secular (in the strict sense) British state. Zubaida (2003) has demonstrated that in practice Islamic institutions and personnel developed a perfectly workable *modus vivendi* with the state in which they were located.

⁵ See, for example, David Martin, *Tongues of Fire* (Oxford: Blackwell, 1990), a study concerned with Latin America, although still mostly with Christianity.

This reference to the history of the Muslim-majority world brings us to a further essential point about the nature of Islamic activism at the present time which is often lost within a debate conducted entirely in religious terms. Modern Islamic discourse is a post-colonialist discourse, shaped firstly within the colonised Muslim-majority world and then more recently within the migrant Muslim minority communities living within the former coloniser nations themselves. The traditional debate about secularisation as it has developed within the discipline of Religious Studies does not acknowledge this. As a symbol of the culture and identity of colonised peoples, Islam played and continues to play a role which European Christianity was never obliged to assume.⁶

The legacy of Weber

No consideration of the relationship between religion and economic behaviour can avoid referring to the classic study by Weber of *The Protestant ethic and the spirit of capitalism* (1930), in which he attempted to demonstrate that the ethical convictions of Calvinist groups contributed to their economic success. A close re-reading of *The Protestant Ethic* reveals that its argument is heavily qualified and much of its historical data questionable. It cannot be said to have proved its case. As for Weber's work on Islam, more thoughtful students of it, among them several of the contributors to Huff and Schluchter's (1999) collection on this subject, accept that his knowledge of Islam was incomplete and based largely on religious texts rather than on knowledge of Muslim societies, and that some of his assertions about it are

⁶ with the arguable exception of the Roman Catholic church in Communist Poland.

factually incorrect. Nevertheless, the essence of Weber's project, to examine the relationship between religious or cultural values and economic behaviour, was and remains extremely worthwhile. The real value of *The Protestant Ethic* to a consideration of the Islamic financial tradition is that it makes us realise how arbitrary and culturally determined are definitions of economic rationality. We should take his work as a starting point for investigation, not the last word on the subject.

Weber is sometimes misused by writers who are primarily interested in attacking Marxism, and thus wish at all costs to prove the primacy of the cultural over the economic in determining behaviour. Huff's own opening paper in his 1999 collection is an example of this tendency. A pitched battle between a crude form of Marxism, reduced to little more than an assertion that economic base determines cultural superstructure, and a tendentious version of Weber, depicted as the champion of the decisive importance of religious or other cultural beliefs, is unhelpful. The debate about the relative importance of socio-economic circumstance and inherited belief in determining behaviour is a rich and complex one, and should be regarded as still very open. I would like to think that this study can make a small contribution to it.

The history of Islamic thought on financial matters⁷

Wilson (1996 p. 117) notes that “over 1400 of the 6226 verses [of the Quran] refer to economic issues”. This is a high proportion, and the figure at once dispels the idea that economics is a peripheral or minor part of the religion of Islam. Given that much of the Quran was revealed in the context of the Prophet’s attempts to establish and administer a religiously based city state, it is natural that questions of correct economic behaviour were prominent in the minds of the believers.

Attitude to trade

When considering the Muslim tradition on financial and economic matters, it is important to remember that Islam does not share the distaste for commerce which has been a prominent feature of the Christian tradition. The Prophet himself was a successful merchant and the Quran and Sunna are deeply marked by a trading

⁷ The literature on Islamic finance and economics is large but repetitive. The best introduction for the general reader is Ibrahim Warde, *Islamic finance in the global economy* (Edinburgh: Edinburgh University Press, 2000), which is weighted more towards what is actually happening than to the theory. Probably the most useful single volume is Frank E. Vogel & Samuel L. Hayes, *Islamic law and finance: religion, risk and return* (Boston: Kluwer, 1998), which is the product of a combined effort by experts at Harvard Law School and Harvard Business School and is correspondingly authoritative. It contains detailed case studies which relate theoretical issues to concrete examples. The definitive study of the *fiqh* tradition on *riba* is Nabil Saleh, *Unlawful gain and legitimate profit in Islamic law* (Cambridge: Cambridge University Press, 1986; new edition 1992), which is heavy-going but indispensable. A classic work by one of the greatest scholars of the Arab world, Maxime Rodinson, *Islam and capitalism* (Harmondsworth: Penguin, 1977), provides a historical account of how financial matters were handled in practice in Muslim-majority countries. There is now a considerable amount of work on Islamic finance being produced in Malaysia and Iran, but this has as yet had little influence in Britain. Much more important for a consideration of developments in Britain are works produced in Pakistan. In light of the importance of Muhammad Taqi Usmani in contemporary developments in Islamic finance, his book *An introduction to Islamic finance* (Karachi: Maktaba Ma’ariful Quran, 2002), should be the starting point for a consideration of the Pakistani literature. There is not yet, as far as I am aware, any book length work dealing specifically with the situation in Britain. No doubt the Economics Research Unit of the Islamic Foundation in Markfield is working towards rectifying this situation. It has also played an important role in making some works originally published in Urdu available in English.

culture. At the heart of their economic thinking is an idealised figure of an honest merchant (Rodinson 1977 [1966] p.16). Rodinson (ibid. p.17) reports a tradition that the Prophet once wondered if the inhabitants of Paradise might still be able to engage in commerce, and that he pronounced the occupation best suited to them if they could to be that of trading in cloth, because that was the profession of Abu Bakr, the closest and dearest of his Companions. This is in marked contrast to the dominant strain of western Christianity, which has always found the Parable of the Talents problematic.

Of course, there are certain items in which it is absolutely forbidden to trade. These are, most straightforwardly, pork products and all alcoholic drinks. Contracts concerning the supply of these goods were treated by *shari'a* as legally unenforceable because their supply was contrary to law in the first place. Also forbidden are products and services connected with gambling or commodified sexuality.

Gambling

The prohibition of gambling is based on a Quranic reference to the name of a particular game of chance popular in pre-Islamic Arabia, *maysir*. The consensus interpretation of this passage is that it intends to condemn all games of chance and related forms of gambling. There are also references in the Quran to practices which appear to have been light-hearted transactions indulged in by merchants as a form of betting, such as buying whatever item a tossed stone landed on, or buying in advance the product of a pearl diver's next dive, which might be nothing at all or a pearl of great value. These practices are specifically condemned. The fact that the English

word “hazard” is derived, via the French, from the Arabic word for dice, *zahr*, gives some indication of how popular gaming was in Arabia.

The passage which condemns *maysir* continues: “By means of intoxicants and games of chance Satan wants only to sow enmity and hatred among you, and hinder you from the remembrance of God, and from prayer” (5:90-91). Note that the emphasis is on the tendency of both intoxicants and gambling to cause quarrels and aggression. This is a recurrent theme in the *fiqh* (Islamic legal) tradition on financial matters. Decisions on whether to permit or to disallow particular practices often seem to have been based on the likelihood of disagreements developing between the parties to the transaction. The preservation of social harmony appears to be the ideal at which Quran and Sunnah aim.

In the modern world the development of forms of trading on the stock market which can appear to be no more than elaborate forms of gambling has opened up a new field of debate. The appearance of state-sponsored lotteries also represents a formidable form of *maysir*.

Uncertainty

There is some overlap between gambling and the prohibition of *gharar*, usually translated as “uncertainty”. The English language literature frequently refers to “aleatory contracts”, by which is meant those whose outcomes are largely dependent on chance factors over which neither party to the transaction has any control. *Gharar* has not received the same attention as the much more widely known ban on

interest (to which I will turn later) but it is a very important element of the Islamic tradition of commercial law.

The classical examples of contracts disallowed because of uncertainty are the sale of an unborn camel, independently of the mother, and of the fruit of an orchard before it is ripe. The purchaser has no way of being certain that the object of sale when it eventually appears will be of good quality – indeed the baby camel may be still-born, or the harvest may be disastrous this year and the fruit rot on the tree. Such transactions are held to disadvantage the purchaser to an unacceptable degree. The argument could be advanced against this, and in fact has been advanced by some dissenting commentators, that the purchaser is able to make an educated guess as to the likely quality of the camel based on its pedigree or the fruit based on previous yields, and that if he feels confident enough to risk a certain amount of money on his judgement then this falls within the scope of normal commercial risk and there is no reason why he should be prevented from so doing. Nevertheless the majority opinion has always been firmly against such sales.

A related prohibition is that of the sale of goods not under the seller's control. The classical example of this was a runaway animal, but the paradigmatic modern example is a stolen car. The logic of this seems more clear-cut, and similar prohibitions exist to the present day in western legal codes. It is however permissible to offer a reward to anyone who succeeds in recapturing the escaped animal, or finding the stolen car, because this payment will only be made if the service is successfully performed.

All sales where the price is not unambiguously stated at the time of agreeing the deal are outlawed. Any such expression as “at the current market price” when this is not known to the purchaser is unacceptable, as is any commitment to purchase goods in the future at a price which cannot be known in the present.

The scope of application of the principle of *gharar* has been enormously increased in recent times by the explosion in the world’s financial markets. Despite the great flexibility and subtlety of the *fiqh* instrument of *qiyas* (analogy), a collection of precedents based on camels and date palms can only with considerable difficulty be made to yield principles which can be applied to the fantastically complicated financial products currently on offer. Even the apparently straightforward question of whether or not an item is under the seller’s control can be very difficult to answer definitively. To date Muslim thinkers have nearly always found trading in futures - that is agreeing to buy goods for delivery at a future date with no certain knowledge of what the market price will be at that date - unacceptable as a clear example of *gharar*. This rules out a large proportion of the activity on modern stock markets. However, Islamic thought in this area is developing very rapidly and is becoming more comfortable with complex financial products. Vogel and Hayes (1998) describe some of the ways in which recent Muslim legal opinions have been able to reconceptualise some kinds of futures trading as forms acceptable to *shari’a*. Warde (2000) points out that it is now sometimes possible to sub-divide products in such fine detail that the unacceptable elements can be detached from the transaction. I consider examples of these developments in detail in the relevant sections of this study.

Insurance

The Muslim position on insurance is not clear-cut. There is considerable disagreement over whether or not it is acceptable. Some radical Islamist organisations will not allow their members to hold insurance policies. On the other hand, Siddiqi (1985) argues strongly that the traditional arguments against insurance are mistaken, and such is the sheer usefulness of insurance that the line of argument of which his book is an example has largely prevailed.

The main reason for being uncomfortable with insurance is that it appears to fall under the prohibition of uncertainty in contracts, because there is no way of knowing whether the client will ever need to claim, or what relation any payment to him may bear to the amount he has paid in premiums. It has been felt that if he successfully makes a large claim after paying only a small amount in premiums he has effectively got something for nothing, which falls under general disapprobation in Islamic thought. On the other hand, if he never needs to make a claim, the insurance company is getting something for nothing. Siddiqi argues that this view is based on a misunderstanding of the nature of insurance premiums. These are in no way related to placing bets on future events, they are payments made for the provision of a service, in the normal manner. The service provided by the insurer is to guarantee security and peace of mind to the client, and this is accomplished quite independently of whether or not the client ever needs to make a claim.

Both Siddiqi and Mannan (1986) are attracted to the essentially mutual nature of the insurance business. They emphasise that the basic principle involved is that a group of people come together to pool their resources and provide security for each other in a way which none of them could do individually, which they see as admirably in keeping with the Islamic concept of community. Both however prefer non-profit making forms of insurance. Mannan admires the British system of National Insurance and sees it as a model for Muslim countries.

Life insurance is particularly problematic for most Muslim writers. It has never entirely been freed from a sense that it entails trying to know the mind of God, that speculating on the date of our death is somehow blasphemous. The justification for it is that ensuring provision for one's dependants after one's death is what any loving and responsible head of household should do. Siddiqi accepts it as necessary for this reason, but cannot face the prospect of anyone making commercial profit out of it and wants to leave it strictly as a state monopoly. It would be true to say that the obligation to take out life insurance to provide security for a mortgage provider constitutes an additional reason for mortgages being problematic for some Muslims.

Riba

The most characteristic feature of Islamic banking, and the aspect of this subject best known to non-Muslims, is the avoidance of paying or taking interest. The sources from which this principle is derived are in fact extremely complex and disputed. They are covered in exhaustive detail in Saleh's (1986) definitive treatment of the topic, to which almost all later writing on the subject is indebted.

In brief, modern bank interest is identified with *riba*, which is condemned on several occasions in the Quran. This word comes from a root which means “to grow, increase”. The clearest and most widely quoted Quranic condemnation of it is: “devour not *riba*, doubled and re-doubled” [3:130]. Most commentators consider that this refers to a pre-Islamic practice of those who in modern parlance might be described as loan sharks, whereby a debtor unable to repay his loan on the due date would have the period allowed for repayment doubled in exchange for a corresponding doubling of the debt. Such an obvious example of the exploitation of the poor, or merely imprudent, by those richer and more powerful evidently aroused the anger of the Prophet. This practice is referred to as *riba al-jahiliyya* (the *jahiliyya* being the pre-Islamic period). Some legal commentators have taken the view that it is only this specific form of extortionate interest which is outlawed, but they are very much in a minority. There is a *hadith* to the effect that “every loan that attracts a benefit is *riba*”, but it is regarded by scholars as unreliable. Nevertheless, the consensus has always been that all forms of “increase” on loans are outlawed. The only kind of loan (*qard*) permitted is a *qard hasan*, or “good loan”, which is an interest-free loan given essentially as an act of philanthropy to those in distress, with no possibility of compelling repayment. (Although naturally debtors are strongly urged to repay if at all possible.) This type of loan is unlikely to hold much attraction in a business context, but it has been seen in modern times as a model for loans provided by the state as a form of social welfare.

The other main source for the law on *riba* is this *hadith*, which exists in several slightly different versions:

“Exchange gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt, measure for measure and hand-to-hand. If the exchanged articles belong to different genera, the exchange is without restraint provided it takes place in a hand-to-hand transaction.” (Quoted in Saleh 1986 p.34)

From this was developed the theory of two types of illegitimate gain: *riba al-fadl* (increase through excess, or in other words not “measure for measure”) and *riba al-nasi’a* (increase through delay, in other words not “hand to hand”).

The four major schools of law (Hanafi, Hanbali, Maliki and Shafi’i) developed numerous differences in the way they identified the ‘*illa* (efficient cause) of the instances mentioned and applied *qiyas* (analogy) to them to obtain principles which could be applied to other types of transaction. (One minor school, the Zahiris, took the extreme literalist view that the rules on *riba* only applied to the six commodities mentioned and there was no problem with interest transactions in any other substance, but this view has had no wider influence.) These differences still have some significance in modern times, and Islamic scholars in contemporary Britain certainly still consider them. A large majority of British Muslims originate from South Asia where the Hanafi school prevailed and so this school is dominant in British Muslim legal thinking, while the global influence of Saudi Arabia has considerably increased the importance of the Hanbali tradition, historically the most geographically limited of the four schools. It would though be true to say that most of the younger generation of British Muslims, with whom this study is primarily concerned, have very limited knowledge of the *fiqh* tradition and do not concern themselves with the finer points of disagreement between schools.

Vogel (1998 pp. 78-9) has been unable to identify any fundamental principles common to all forms of *riba*, despite the widespread assumption that there must be some. As he says, it is difficult to see any meaningful difference between an interest free loan of cash, which is permitted, and the repayment after a delay of an identical kind and quantity of produce, which is forbidden. The whole argument is complicated by the fact that the Prophet is reported to have engaged in a sale with advance payment for future delivery, and since his behaviour is normative this has always been treated as a lawful form of sale, called *bay' salam*.

Regardless of whether or not it is justified by the sources in Quran and Sunnah, the identification of *riba* with bank interest is unshakeably fixed in the minds of the vast majority of Muslims, and this is the point with which any consideration of the development of Islamic finance at the present time must be concerned. It is established as a fundamental principle of *fiqh* that “reward goes with risk”, in other words all potential for making profit must be accompanied by the risk of loss. A savings account where the money is guaranteed secure is acceptable if it does not pay interest, but no form of investment with the hope of gain may be guaranteed.

Ways of avoiding *riba*

The majority of non-Muslim writers on the subject believe that historically interest was merely disguised rather than avoided in Muslim societies. Rodinson (1977 [1966]) puts particular emphasis on the use of *hiyal*, legal devices which technically avoid interest while producing the same result. A common example was the notional

re-purchase for immediate cash of some trivial item which came to hand in response to its sale for a larger but delayed payment, with the effective result being a loan at interest. Even Muslim writers accept that this device was very widely used, and the Hanafi and Shafi'i schools of law regarded such *hiyal* as legitimate (Saleh 1986).

If all else failed, there was the principle of *darura*, which in its strict application is the Muslim version of the precept that “necessity knows no law”. The classical example is that a person who is starving and can find no food other than pork is permitted to eat the pork. *Darura* is intended to apply only to situations of extreme gravity, life and death emergencies, but it has been used and arguably abused to justify much more loosely defined needs. An example in recent times is that the government of Saudi Arabia, having failed to obtain a *fatwa* to suit, invoked the principle of *darura* to justify enforcing the repayment of debts, on the grounds that the economic survival of the country depended on investors being able to have confidence in repayment.

Non-interest based forms of profit

So, if making a profit through compelling payment of a fixed rate of interest is not permitted, how can a Muslim bank or other investor make money? It is important to remember that *shari'a* is in no way opposed to making money as such, it just insists that this profit is clearly distinguishable from *riba*. There are several approved arrangements. In considering these it is worth bearing in mind Saleh's comment that “a sale contract has always been considered the typical contract in Islamic law, and the one on which nearly all others are modelled” (Saleh 1986 p.34).

The first, the *murabaha*, is by far the most commonly used type of contract. Here the client asks the bank to purchase some needed supplies on his behalf and then re-sell them to him at a higher price. (The price differential must be stated to the client in advance, or the deal will fall foul of the rules on *gharar*.) To be strictly valid the bank must actually take possession of the goods, but Vogel and Hayes (1998) found that this is often merely a book-keeping fiction. This type of contract is one of the means employed by Islamic banks, including those in Britain, to enable their clients to purchase houses without taking out a conventional mortgage. In a *murabaha* contract title to the property should, strictly speaking, be transferred to the client on completion of the initial transaction and not retained until the client has made all the repayment instalments, but this does not appear to be the universal practice of the banks which employ such contracts to fund house purchase. A question therefore arises about whether there is an unacceptable lack of risk to the lender in these cases. *Murabaha* has in any case always been under suspicion of being no more than interest by another name, and some commentators regard it as illegitimate. Because of such concerns many Islamic banks are attempting to reduce their dependence on it.

The type of contract which most writers see as characteristically Islamic, and hence as the most desirable, is the *mudaraba*, often translated as sleeping partnership. Here the bank or other financial backer advances funds to an entrepreneur to invest in a business, and in exchange is entitled to a certain percentage of the profits of the business. The exact percentage is open to negotiation between the parties, but must be fixed in advance. Any attempt to express the return in terms of an actual amount

of money will render the contract unlawful. The entrepreneur has the possibility of eventually buying out the backer by mutually agreed instalments: this is known as a diminishing *mudaraba*. The aspect of the arrangement which seems alien to non-Muslim economists is that in the case of the business failing to generate any profits the investors have no way to recover their money. The manager is considered to have lost enough by losing his time and effort, and cannot be compelled to repay the funds originally advanced. Islamic economists respond to criticisms that there is no disincentive to idleness or fecklessness on the part of the client by pointing out that this should be prevented through careful assessment of risk and supervision of the business, which is no more than normal business prudence. However, most sleeping partners do not wish to be actively involved in the day-to-day supervision of the business, and in practice it has been demonstrated that the scope for the manager of the business to deceive the investor is considerable. This usually takes the form of under-stating his profits and charging up personal expenses as business costs. Because of such concerns it is estimated that currently only 5% of transactions undertaken by Islamic banks are *mudaraba* (Vogel & Hayes p.135). This is a source of regret to many commentators who see this type of partnership contract as potentially the most innovative contribution of Islamic commercial law to the modern world.

The third type of contract is the *musharaka*, in which both the bank and the entrepreneur, or two or more business people together, put up some money and share both the profits and the losses in proportion to their original investment. This is similar to a joint stock company and is the arrangement which non-Muslims find easiest to understand.

There are also leasing arrangements known as *ijara*. These are suitable for the purchase of business equipment or of a house. The bank buys the goods and leases them to the client in exchange for payment of rent. The client may have the option to purchase the goods outright eventually, in which case it becomes a form of hire purchase (*ijara wa iqtina*). This is the other main method of house purchase offered by Islamic banks. Hayes (1998) sees lease arrangements as having considerable potential to be extended to other kinds of business financing.

Zakat

We now come to the second main pillar of the Islamic economic tradition, the obligation to pay *zakat*. This can be described as a form of compulsory charity, but a more apt term frequently employed by writers in English is “alms tax”. In practice *zakat* functions as a form of wealth tax. It is normally fixed at 2.5% (the slightly cumbersome modernised form of the traditional one-fortieth) of all savings held for over a year by those whose wealth has passed a threshold known as the *nisab*, an amount traditionally expressed as a certain quantity of gold and silver. Some legal commentators have taken the view that the rate of *zakat* cannot be changed from that established by the Prophet, others have argued that the public authorities in Muslim states are entitled to alter (i.e. raise) it to meet current economic needs. There is some debate about exactly which types of assets are liable to *zakat* – like most things in the field of Islamic finance, this problem has become much more complicated in recent times. A further complication is introduced by the existence of income tax, much of which goes to fund activities which have traditionally been regarded as

appropriate objects of *zakat* expenditure (i.e. forms of social welfare provision). The prevailing opinion appears to be that this cannot be counted towards fulfillment of a religious obligation as it is not a specifically Muslim tax either in intention or use.

The lawful objects to which *zakat* expenditure can be directed are set out in the Quran. They mention those which we would normally regard as suitable objects of charity today, such as caring for orphans, but also include the propagation of the Islamic faith. While general charitable activity can be harmoniously combined with the activities of other organisations, proselytising activity may be difficult for Muslims in the diaspora. Those writers who are primarily concerned with the establishment of Islamic states envisage *zakat* as largely replacing other forms of tax and sufficing to meet most of the revenue requirements of the government. This scenario remains hypothetical at present.

Charitable giving in general is known as *sadaqa*. *Zakat* is a very specific obligation to give a fixed amount, but there is of course no limit to the amount of charitable donations which may be made as voluntary but meritorious *sadaqa*.

Ray (1995) describes how the Faisal Islamic Bank of Egypt deducts 2.5% of its customers' balances annually without any specific authorisation, the customers having given their consent as part of the standard terms of the account. This money is directed towards various philanthropic projects supported by the bank and approved by its *shari'a* supervision committee. All writers agree that the ideal Islamic bank would use some of its *zakat* funds to cover its bad debts, there being

clear Quranic authority for the relief of debtors being a legitimate object of charity. This provision appears to be open to abuse and it is not clear to what extent Islamic banks at the present time make use of it. (There is general confusion about the performance of these banks. Ray (1995) claims that his case study demonstrates that the FIBE is a success, but Warde (2000) points out that he has had to overlook several anomalies on the balance sheets.)

It will be apparent that a sum of money left indefinitely in an Islamic bank which deducts *zakat* will actually diminish, unlike one left in a conventional bank which will increase through the payment of interest. The combined effect of the prohibition of *riba* and the enforcement of *zakat*, the two key concepts of Islamic finance, is to produce a strong disincentive to leave money in a savings account for long periods. This habit is usually referred to disparagingly by enthusiasts for Islamic economics as “hoarding”. The term deliberately echoes the language normally used for the selfish stockpiling of essential consumer goods at a time of shortage. Siddiqi (1981) strongly argues that money should be seen as merely “a medium of exchange, not a store of value”. In fact he cites approvingly an author who took this to the length of recommending that currency notes should be date-stamped and their value decreased over time. (The steady shift away from cash in the modern economy would seem to have rendered this suggestion impractical.) The point repeatedly stressed by all writers on the subject is that money should circulate around society. It must be used for productive investment, not allowed to idle in an individual’s bank account. More importantly, it must be constantly redistributed from the rich to the poor. The essential tendency of the system is to reduce inequality. There is a verse of the Quran

which says this explicitly: “let it [money] not just make a circuit of the wealthy among you” (59:7).

Some points of convergence with non-Muslim thinkers

Islamic thinkers who have been trained in conventional economics often see a parallel to the objection to hoarding in the work of John Maynard Keynes. The most famous theoretical contribution of Keynes was to argue in the 1930s that the governments of Britain and the USA should engage in large scale public spending projects to alleviate unemployment and increase economic demand, in opposition to the consensus of the economists of the time which believed that public spending should be reduced during a period of economic recession . For example, Mannan (1986 p.163) says that Keynes, in *The General Theory of Employment, Interest and Money*, “clearly admits the Islamic concept of banking”. This would no doubt have come as a surprise to Keynes himself, and is an unwarranted extrapolation from his promotion of spending rather than saving as a solution to a particular problem. The towering stature of Keynes as an economist means that this apparent endorsement of Islamic financial thinking confers a most welcome air of mainstream intellectual respectability on the Islamic tradition. Whilst there is certainly an interesting point of convergence here, one should be cautious about exaggerating its extent. Keynes’ proposals were made in a very specific historical context and he did not denounce hoarding instead of spending as a general principle.

It should also be noted that some Christian writers have been concerned about the tendency for the rich to get richer and the poor to get poorer which is brought about

by the institution of bank interest. Charlton et al (1986 p.87), in their survey of Christian responses to the inequalities of the early capitalist era, quote one suggestion from William Temple, a church leader and social thinker writing in the 1940s, which is strikingly reminiscent of the Islamic tradition. “As soon as the interest paid on any investment is equal to the sum invested, the principal should be reduced by a specified amount each year until the claim of the investor to interest or dividends was extinguished”. In Islam, of course, the payment of dividends is permissible while interest is not, but, with this proviso, the effect of such a radical regime as Temple proposes would be not dissimilar to that produced by the prohibition of interest payments on secure deposit accounts.

An observation which Weber quotes from John Wesley casts an interesting light on the philosophy behind the prohibition of hoarding and obligation to pay *zakat*: “Religion must necessarily produce both industry and frugality, and these cannot but produce riches. But as riches increase, so will pride, anger and love of the world in all its branches” (Weber 1930, p.175). The promotion of charity is, seen in this way, an almost essential counter-balance for a religion which positively values commercial activity.

The legacy of the Prophet thus embodies a profoundly attractive vision of egalitarianism and social welfare. The fact that no actual Muslim society has ever realised this vision in practice does nothing to shake the attraction of the vision. It continues to inspire the faithful to strive to realise it, in their own country or for the

worldwide *ummah* as a whole, and it will do so for as long as people yearn for social justice.

Writing on Islamic finance in recent times

Just such a wave of enthusiasm seems to have seized a number of Pakistani economists in the first decades after the creation of their state. The first generation of literature in English on this subject is represented by the works published by the Islamic Foundation in the 1980s. These are nearly all translations of books originally published in Urdu. The exception is Siddiqi's *Muslim economic thinking: a survey of contemporary literature*, which is an English original and, although the first of his books to be published by the Islamic Foundation (in 1981), actually postdates the other works by him on their list by a number of years. Siddiqi himself claims that the original Urdu version of his *Banking without interest* was the first full-length book to be published on the subject anywhere in the world. Mannan's book *Islamic economics: theory and practice*, produced in Bangladesh in 1975, is very similar in style and content to Siddiqi's work. Remarkably, it is still in print and readily available in Britain (which must say something about the paucity of work on this subject until very recently).

The complicated publishing history of these books can obscure the fact that they are very much of their time and place. They are convinced that the creation of a true Islamic state in Pakistan and/or Bangladesh is possible. They are intensely concerned with the immediate problems of a developing country. Mannan devotes a great deal of space to elaborating on the Prophet's reported remark that someone who cultivates

neglected land has a better title to it than the owner who neglects it. To some extent they reflect the political alignment of their authors' countries towards the Soviet Union, making fairly numerous complimentary references to the achievements of that country.

Mannan, Siddiqi and Naqvi (1981) are all obliged to make frequent recourse to state intervention as the only means they can imagine of enforcing all the provisions which they regard as desirable. A central tension emerges from their work between the idealisation of the pious but otherwise unconstrained entrepreneur which lies at the heart of the tradition of Islamic economic thought and the apparent impossibility of enforcing Islamic norms throughout a whole society without a high level of state control.

“[W]e must be very clear on the point that the goals of the Islamic system have got to be achieved and coercion is allowed where education fails.”
(Siddiqi 1981 p.20)

But:

“Islamic criticism finds Socialism in conflict with the basic requirements of the moral and spiritual growth of human personality, chief among them being freedom of choice and action. The methodology of change adopted by communism is bound to lead to a coercive regime.” (ibid. p.52)

They all seek to resolve this problem by citing the higher level of virtue in the future Islamic state. Once restored to their heritage and made aware of their true interests, people will be happy to co-operate. “As *zakat* is a divine order, wholehearted co-

operation of the individual concerned to bring out his hoarded wealth would be forthcoming” (Mannan 1986 p.263).

According to Naqvi’s (1981) highly idiosyncratic reading of Weber (1930), all of the unattractive features of the western world can be attributed to Protestantism. Once the Islamic ethic is restored, an Islamic economic system will naturally follow. Readers could be forgiven for being somewhat sceptical about appeals either to increased virtue or to cultural essence.

A theme only touched on in these books but whose importance should be borne in mind is the emergence of the vast wealth and power of the oil states during this period. The desirability of distributing some of this money around the less fortunate parts of the Muslim world is clearly present in the minds of these writers. “Luckily, the inception of Islamic banking coincides with a great spurt in economic activities in several Muslim countries, especially those with oil” (Siddiqi 1983 p.11). We may perhaps not see this as mere coincidence.

The condemnation of extravagant consumption and hoarding of wealth in these books must surely make uncomfortable reading for the rulers of the oil states. The position of Saudi Arabia is particularly anomalous. The names of various Saudi universities and banks feature prominently in the literature as sources of financial and intellectual support to research projects on Islamic economics. Yet this is virtually the only Muslim country which will not allow any bank within its territory

to call itself “Islamic”, because this would imply that the other banks were un-Islamic. In fact it has made no serious attempt to Islamicise its banking system.

Wilson makes the widely quoted observation that “there has been more written on Islamic economics in the last two decades than in the previous fourteen hundred years” (1996 p.115). A second generation of literature appeared in the 1990s. In this, disillusionment with Pakistan and Iran is prominent. Rather than labouring over ideal-type models of the Islamic state, these books are concerned with the operation of actual financial institutions in countries where they have to co-exist with non-Islamic ones. Questions raised by the necessity to deal with interest-based banks, whether within the same country or abroad, have become more pressing. They are less concerned with the problems of small-scale agriculture and show a desire to get the savings of the peasants out from under their mattresses and into the banking system and thus available to the government for development projects. Ray (1995) mentions that in Egypt one justification for the foundation of Islamic banks has been that the poor, who traditionally have a deep distrust of banks (sadly in some cases well-founded) are more likely to trust an institution which appears to be guided by religious principles. The whole tone of the more recent books is much more “real world” than that of the first generation. They are responding to problems which have actually arisen in practice.

For our purposes of course the main interest is in the possibilities for Islamic financial institutions and products in the diaspora. The problems raised by attempts to make *halal* products available to Muslim minorities in Europe are quite different

to those involved in attempts to Islamicise a whole country. The issue of coercion retreats and instead enthusiasm to participate as a means of affirming Muslim identity emerges as a driving force.

Ibrahim Warde's book *Islamic finance in the global economy* (2000), to which my study is heavily indebted, is a world away from the neglected fields of Bangladesh. The author is evidently entirely at ease in the world of high finance and indeed is a regular contributor to *Le Monde Diplomatique* in this area. This work is not an apologia for Islamic finance but an objective survey of its achievements, failures and future possibilities.

The enforcement of modern auditing regimes can do much to alleviate concerns about the lack of transparency and potential for fraud in some forms of Islamic financing arrangements, particularly, as we have seen, *mudaraba* contracts (Siddiqi 1983). So it is slightly alarming to find one modern writer citing the very absence of burdensome accounting requirements as an attraction of Islamic finance. Arar (1998) informs us that "Islamic financing is gaining more popularity world-wide as the documentation is simpler and it is less dependent on conventional company accounts". Such an attitude is unlikely to persuade the regulatory authorities of the financial services industry to be more ready to approve Islamic products. Fortunately this view is in a minority, and most serious writers in the field acknowledge the urgency of bringing Islamic financing methods into conformity with the high standards of accountancy expected in the developed world.

The debate on *dar al-harb*

Traditionally all countries where Muslims are a minority have been treated as *dar al-harb*, lands of war, as opposed to the *dar al-Islam*. At least one legal school, the Hanafi, maintained that it was not necessary to observe injunctions such as the prohibition of *riba* when living outside the *dar al-Islam*, and that countries where Muslims were a minority continued to be *dar al-harb*. (This question is considered in detail in Masud 1990.) There has therefore been an incentive for Muslims who wished to engage in interest based transactions with a clear conscience to continue to regard the countries to which they had migrated as *dar al-harb*.

Some scholars still take this view, but it is becoming very difficult to sustain. The most celebrated recent example of the opinion that it is permissible for Muslims living in Europe to take out interest-based loans is the so-called “Qaradawi *fatwa*”, that is the opinion issued in 1999 by the European Council for Fatwa and Research, whose president is Yusuf al-Qaradawi. Caeiro (2004 p.353) points out that “the ECFR does not usually make use of the Hanafi opinion according to which the shari’atic interdictions regarding transactions in *dar al-Islam* do not apply to Muslims outside it”, and that the Council still forbids investments with fixed returns. The *fatwa* was issued on the grounds of *darura*, necessity, and the lesser form of need, *haja*, taking account of the unsatisfactory nature of the housing available to large numbers of European Muslims, and the damage this was doing to the perpetuation of the Islamic faith in Europe, bearing in mind that the home is the prime locus of transmission of faith. (Caeiro 2004 considers these justifications of the *fatwa* in detail.)

The term *dar al-harb* implies that these countries have an actively hostile relationship with Islam, which most Muslims do not consider to be the case. For the second generation who accept that the countries in which they were born are their real home and have no comforting “myth of return”, it is no longer possible to postpone the living of an observant Muslim life until they are living in a Muslim-majority country.

Few commentators are prepared to consider Western Europe or North America as *dar al-islam* when Muslims are such a small minority there, but the need for an intermediate position is widely felt. Some writers have adapted the term *dar al-‘ahd*, lands of treaty, which historically referred to territories with which the early Muslim state had treaty relations, to describe the countries where Muslim migrants have settled and in which they enjoy religious toleration and the full protection of the law. Ramadan (1998; 2004) has developed a ground-breaking conceptualisation of these countries as *dar al-shahada*, lands of witness. He boldly compares the situation of Muslims in countries where they are a minority to that of the very first converts to Islam in Mecca, in as much as they are called to bear witness of the truth of Islam to the unbelieving majority population.

The way forward

There are, then, three main positions available to Muslims in Europe regarding involvement in forbidden transactions. The first is the pragmatic – there is no readily available alternative, so they just have to do it. This is of course the view taken by

many individuals of Muslim heritage who no longer actively practice the Islamic religion. If however the need is felt for some formal religious justification, the fact of living in the *dar al-harb* or perhaps *darura* can be invoked. The second is the oppositional-separatist. The fact that it is almost impossible to avoid *riba* in this society is a reason to reject this society altogether, which leads to an attempt to withdraw as far as possible from any engagement with it. The third is a creative, intellectual commitment. This society is now the permanent home of many Muslims and they wish to be fully contributing members of it, but they also wish to retain and affirm their Muslim faith. To this end they endeavour to find ways of avoiding forbidden transactions without compromising their participation in the life of this country. It is evident that it is the third position which is the interesting one, and it is with this therefore that this study is mainly concerned.

General issues connected with *riba* in Britain

The history of Islamic banking in Britain

Attempts to introduce Islamic financial services in the UK in the past have generally not been very successful. British banking regulators' views of the probity and stability of Islamic banks have been coloured by the disastrous failure in 1991 of the Bank of Credit and Commerce International. This was not formally an Islamic bank. It did, though, have an Islamic Banking Unit, and had "made heavy use of Islamic rhetoric and symbolism" (Warde 2000 p. 84). More importantly, it held large deposits from banks in the Arab world which did claim to be Islamic, such as the Faisal Islamic Bank of Egypt, and the image of these latter suffered through association (ibid.).

Before the period with which this study is concerned, the most ambitious Islamic banking project in Britain was the Al-Barakah Bank, which was an attempt to form a fully fledged Islamic bank. It was set up in 1982 but finally forced to close in June 1993 by the Bank of England after failing to satisfy regulators of its reliability. It was a British subsidiary of the Dallah Al-Baraka Group, which was owned by a member of the Saudi royal family but was not based in Saudi Arabia but rather in the Bahamas. It was this transnational nature of the bank which British regulators found particularly worrying, because they saw it as creating a situation where the bank's activities could not be satisfactorily supervised by the authorities of any one territory

(Warde 2000 pp. 194-95). This tension between the increasing transnationalism of financial activity and the need for regulation is a recurrent feature of developments in Islamic finance.

The anxiety of regulators internationally to prevent banks being able to avoid regulation by dodging between territorial authorities led in 1974 to the creation of the Basel Committee on Banking Supervision, a co-operative body of the governors of the central banks of the world's largest economies. Since then the Basel Committee has been an increasingly active forum for co-operation between bank regulators internationally. Its most important production for our purposes was the agreement of 1988 known as the Basel Capital Accord, which laid down the minimum capital to assets ratio required of banks operating internationally. This agreement is incorporated into European law and thus cannot be unilaterally altered by the British government or Financial Services Authority. In addition to laying down the figure of 8% as the minimum ratio of capital to assets, it created a classification of different types of assets according to how risky they were perceived to be. Islamic methods of financing are treated unfavourably under this scheme, that is, they are regarded as high risk and accordingly required to have high capital reserves (Warde 2000 pp. 188-89).

This problem was dealt with very sympathetically by Howard Davies, the chairman of the Financial Services Authority, in a speech he gave in September 2002. Mr Davies indicated that he believed it to be important to press for more generous treatment of Islamic loans under the capital adequacy rules, which would otherwise constitute a permanent source of competitive disadvantage, and that he hoped that

this would be achieved when the next revision of the Basel Accord was approved in 2006. It is though important to bear in mind that these rules are there for a reason, and that it is in no one's interest to allow Islamic financial services providers to operate with inadequate capital and a consequent high risk of failure. Mr Davies made this point obliquely in the same speech when he said that he would "welcome a soundly financed and prudently managed Islamic financial institution in this country". Now that the burden of double stamp duty has been lifted (see below) it seems likely that the problem of capital weighting will become the new focus for Muslim grievance at the apparently discriminatory treatment of Islamic financial products.

Another serious concern has been the inability of Islamic banks to nominate an unequivocal lender of last resort. This has been an enduring obstacle to attempts to create Islamic banks in the Muslim-majority world as well as in Europe, because there is usually a choice demanded between naming a conventional bank as lender of last resort, thus compromising the bank's *riba*-free status, and maintaining the bank's purity but risking collapse due to the lack of one. In practice, there is a tacit understanding that conventional national banks will bail out a failed Islamic bank (Warde 2000 p. 199). There are now signs that the Islamic Development Bank is beginning to emerge as *de facto* lender of last resort (ibid.) and this problem may become less serious as Islamic banking grows.

Recent encouragement of Islamic financial services by government

In the last few years there have been concerted efforts by representatives of the financial services industry and the government to remove some of the obstacles to

the successful introduction of Islamic products. In 2001 a working party was set up on this matter, comprising representatives of the Treasury, the Financial Services Authority, the Council of Mortgage Lenders, several banks, and some Muslim organisations, including the Muslim Council of Britain. The working party was set up by Sir Edward George, then governor of the Bank of England, who seems to have taken a lively personal interest in the subject of Islamic finance, after consultation with the Chancellor, Gordon Brown, and was chaired by Andrew Buxton, a former chairman of Barclays bank and director of the Bank of England.

This enthusiasm by one governor of the Bank of England contrasts with the attitude of a previous incumbent of the post, Robin Leigh-Pemberton, who said that Islamic banking was “a perfectly acceptable mode of investment” but did “not fall within the ... definition of what constitutes banking in this country” (Warde 2000 p.194). Some lay people may well assume that this is still the attitude of the banking elite, but in fact at the highest level attitudes have now moved on considerably.

The working party identified a number of problems, some of a rather technical nature, which I consider where appropriate in relevant sections of this study. Here I will only comment on the proposal to reform the regulations on stamp duty. This duty is charged on the registration of a change of ownership of property over a certain value, and functions in effect as a tax on house purchase. This is the only matter identified as a problem by the working party to have led so far to government action. In his Budget speech of 9 April 2003 the Chancellor announced that it would no longer be necessary to pay stamp duty twice on *murabaha* or *ijara* transactions where title to the property was transferred twice.

This announcement received a great deal of publicity in both the Muslim and the mainstream media. It was hailed as a campaigning triumph by the Muslim Council of Britain, who splashed it as the lead story in their electronic newsletter of the following week. The *Financial Times* (09.04.03), normally a very reliable reporter of news on Islamic finance, produced the extraordinary statement that the mortgage industry had previously “been held back from developing home loans for Muslims by stamp duty and shari’a”. The parity of esteem thus implied between the *shari’a* and a British tax is most unfortunate, but this wording does give a sense of the exaggerated importance given to the change in stamp duty regulations by most media commentators. It was widely described as removing the reason for “Islamic mortgages” being more expensive than conventional ones; for example the *Financial Times* report already mentioned quoted a Treasury source as saying that “most of these mortgages will become cheaper” as a result of the change.

In fact other factors are considerably more important in generating extra expense in Islamic home purchase. Stamp duty is charged at the rate of 1% of the purchase price of a house over £120,000 in value (the threshold was raised from £60,000 in the budget of 16th March 2005) but below £250,000, a band which still includes the majority of property sold in this country. This works out at less than £2,500 for a typical buyer, or £5,000 for the unfortunate Muslim buyer charged twice. This is a not inconsiderable sum but no more than the fees charged by most estate agents, and in the case of an *ijara* contract the second payment would be made a number of years later. The rate of duty increases to 3% on purchases of properties over £250,000 but below £500,000 and to 4% on values over £500,000, and, clearly, being charged 4%

of £500,000 twice would be a much greater irritant. The number of Muslims purchasing property in this price band cannot be very great, but it is very likely that their influence on Treasury thinking is greater than their numbers. It is also likely that the much greater proportion of houses in higher bands in the London area, home of most opinion formers, than in the rest of the country is an important factor.

A more cynical view of the decision to make this change would be that it was an easy and cheap way for the government to look as if it was accommodating Muslim concerns. The amount of positive publicity generated was out of all proportion to the cost to the Treasury. In fact, a report produced by the Council of Mortgage Lenders in November 2001 (p. 14) had concluded that: “tax revenues will not be adversely impacted by amended legislation and might be enhanced by encouraging more property purchases”. This paper also contains indications that banks participating in the Council were already devising ways around the double stamp duty requirement; for example by phrasing the documentation in such a way that the purchase of the house by the bank under a *murabaha* arrangement was described as merely a financing device and not a legal transfer of title.

Attitudes of conventional banks

The launch of an Islamic house purchase loan by HSBC bank (which I consider in detail in the next section) received a great deal of media attention, some of it apparently expressive of surprise that the bank considered Muslim custom to be worth going to so much trouble. A few months after this launch I wrote to most of the well-known British banks and building societies to ask whether they had any plans to launch similar products.

National Westminster sent a polite response indicating that they had “considered similar products” but had “no immediate plans to introduce such mortgages” (personal communication 18.12.03). At the time of writing (late June 2005) they still do not seem to have taken any steps towards introducing them.

Lloyds TSB, who did not reply to me, had been quoted some years earlier (*Daily Telegraph* 09.08.01) as saying that they had no plans to develop any Islamic products. In February 2005 Lloyds TSB launched a *shari’a* compliant mortgage and current account, although these services are at present only available from certain key branches (Birmingham, Dewsbury, Luton, Southampton and two in London) (*news.bbc.co.uk* 23.04.05). This seems to be an example of what business commentators sometimes call a “me too” product. That is, once HSBC, a leading rival of Lloyds TSB, had launched these products, the latter felt obliged to follow suit.

Halifax Bank, whose head office is in the town of the same name, explained that they were “maintaining an active interest in the recent developments in the ‘Islamic mortgage’ market” but that their “development resources” were concentrated on “the forthcoming introduction of Mortgage Regulation and are likely to remain so for some time” (personal communication 30.12.03). This appears to be a deliberately non-committal formulation which leaves open the possibility of their active interest being translated into a product at a later date. This letter continued with a paragraph describing at some length the way in which the bank’s “Diversity Team” developed strategies for fulfilling its “corporate responsibility in relation to local communities”.

These included the provision of prayer rooms for Muslim staff and the distribution of the Shap calendar of religious festivals to all branches. The impression this letter gave was of a more direct involvement with Muslim staff and customers than was evidenced by the responses of London based banks.

The only company to reply affirmatively (if ungrammatically) to my enquiry was the Yorkshire Building Society, whose head office is in Bradford. They could “advise that the Society is looking into providing this type of mortgage finance, as you have pointed out our branch coverage is in areas that is populated by Muslims” (personal communication 11.12.03). They had been working on this project for some time and “were hoping to be in a position to enter into this market in October 2003”, but unfortunately this had not been the case. Although they also mentioned the workload created by the introduction of statutory mortgage regulation requirements (on 31st October 2004 all mortgage lenders were required to be approved by the Financial Services Authority), the main obstacle was that not charging interest was such a novel concept to their computer programmers that it “required a complete rewrite of our mainframes systems”. It is noteworthy that despite their initial exploration of the subject revealing that such a labour-intensive and expensive operation would be necessary they still considered it worthwhile to proceed with their plans to launch *shari’a* compliant home loans. However they do not yet appear actually to have introduced any Islamic products.

A small item in the *British Muslims Monthly Survey* (BMMS) of February 1996 provides more evidence of concern by banks based in Yorkshire for the sensibilities of Muslim customers. A Wakefield branch of the Yorkshire Bank refused to open an

account for a small animal welfare organisation which had been set up specifically to campaign against the slaughter of animals in accordance with Muslim and Jewish ritual requirements. The organiser of the campaign claimed that the bank was only concerned about upsetting its Muslim and Jewish customers, which was probably in fact the case.

A former chairman of Barclays Bank, Andrew Buxton, was the chairman of the working party set up to consider the issues raised by the introduction of Islamic financial products and suggest ways to remove obstacles to their promotion. Mr Buxton was chosen for this role because he was known to have an existing interest in Islamic finance, and it would be remarkable if he had not considered their introduction by his own bank. Indeed, it was reported in the *BMMS* of September 2001 that a representative of Barclays bank had recently assured the Islamic Foundation that they would soon be in a position to launch Islamic products. During the period of this study however I have not come across any indications that Barclays are close to doing so.

Barclays are though prepared to offer interest-free accounts to Muslim customers. Several correspondents to www.salaam.co.uk (postings 27.10.03 and 29.10.03) said that they had such accounts, although it appears that there is no account actually defined as interest-free, it is merely a case of the bank agreeing not to pay interest on a particular client's account. Judging by the diverse experiences of correspondents, different branches seem to vary considerably in their willingness or ability to do this. It seems that any bank, not just Barclays, will consider a request for interest not to be paid. One message (posted 28.10.03), which explained that the writer had enquired

about opening such an account and been told that she would have to write to the manager of her own branch and arrange for interest not to be paid, then expressed concern that this would simply mean Barclays could keep more money to use for their own *riba* related activities. The obvious fact that when a customer refuses to accept interest the bank keeps more of its *haram* earnings itself seems to have led many Muslims to conclude that it is not worth the effort of declining interest payments, or been used as a justification for receiving them.

This question was considered in the *BMMS* of August 1999 (citing an original article in *The Express* 18.08.99), following condemnation by the leader of the “Muslim Parliament”, the editor of *Islamic Banker* magazine and the finance spokesman of the Liberal Democrat party of the failure of the Halifax, Barclays and Yorkshire banks to pay rejected interest money to charity. The Halifax said that it could be retaining £15,000 a year in this way, but pointed out that such an amount was “a drop in the ocean” to the bank. The article claimed that HSBC and the Bank of Scotland both gave rejected interest money to charity. Barclays defended their retention of the money on the grounds that the interest remained the property of the customer and could not be given away. This would appear to be a murky legal area, and any attempt to clarify the matter would be of considerable interest. (Six years later, I am not aware of any such attempt having yet been made).

HSBC launched an Islamic current account at the same time as their *shari’a* compliant home loans, in July 2003. The Amanah account offers all the usual facilities of a current account (cash deposit and withdrawal, cheque book, debit card, standing orders and direct debits) but pays no interest on credit balances. It has no

authorised overdraft facility but the bank recognises that unauthorised overdrawing cannot be prevented. The bank has therefore obtained a ruling from their *shari'a* advisory committee that while the charging of debit interest on overdrafts is naturally not permissible, the charging of flat rate fees is acceptable, because they only cover “administrative expenses” and “processing cost”. Furthermore, customers whose balance falls below £1,000 (which is probably the majority of the target market) will incur monthly “account maintenance charges”. The booklet from which this information is taken (*HSBC Amanah Finance* pp. 13-14) presents a curious contrast to the usual bank publicity material in which claims are made for the competitiveness of its rate of interest; it gives prominence to the assurance that the account will make absolutely no profit or return of any kind.

A further section of this booklet (p.16) regrets that the bank does not yet offer a *shari'a* compliant credit card. The question of whether any such thing is possible is hotly debated. In Malaysia, always at the most daring end of innovation in Islamic finance, the Arab-Malaysia Bank has introduced a so-called Islamic credit card, which instead of interest charges the user a fee which is a percentage of spending (Warde 2000 p.127). It seems very likely that a similar product will be introduced in Britain in the near future.

In July 2004 there was evidence of a more general concern to avoid offending Muslim customers when Barclays closed five bank accounts held by the British National Party, following the broadcast by the BBC of secretly filmed footage showing Nick Griffin, the leader of the BNP, denouncing Islam as “a wicked, vicious faith”, and of other party activists describing assaults on Muslims and members of

other ethnic minority groups. The bank reported that it had a general policy of providing services to “any legally constituted political or campaigning organisations” but that it would “make exceptions on commercial grounds if the implications for our business of having such an account, such as loss of other business or reputational damage, are considered sufficient reason” (*Daily Telegraph* 17.07.04). Naturally the BNP complained that Barclays was in a weak legal position, but it seems likely that a court would uphold both the bank’s right to refuse accounts which would damage its reputation and the opinion that holding accounts for the BNP would cause such damage. No bank representative has said in so many words that the prospect of all its Muslim customers closing their accounts is commercially alarming, but this must surely be the case.

The overall message of this evidence of interest in Muslim customers by financial organisations is that in a free economy no amount of “Islamophobia” can withstand the existence of a significant number of Muslims in possession of a significant amount of money. The individuals who work for these organisations may or may not be personally sympathetic to Islam or desirous of promoting harmonious race relations; this is neither here nor there. The presence in Britain of around a million adult Muslims who need bank accounts and are unlikely to patronise a company which they perceive to have offended their faith constitutes an impersonal commercial imperative.

Position of Muslims regarding employment in the financial services industry

Highly educated Muslims in a position to take up employment in the financial services industry can face very difficult and painful decisions if they take the prohibition of *riba* seriously. An example of this was posted on www.salaam.co.uk on 29.06.03. This site is aimed mostly at young British Muslims and has a lively discussion forum. Heading his message “advice required”, the writer explained that a close friend had been offered a job in the IT department of the Halifax bank, and was very happy about this, but was now worried because he had been told by some other acquaintances that it would not be right for him to take the job, because “more than 50% of his salary would be interest, which makes it haram”. A calculation of how much of an individual employee’s salary could be said to be derived from interest would be impossible to perform in any meaningful way, and this wild claim can be disregarded in its specifics. The wider issue, however, of whether employment in a bank in any capacity can be reconciled with faithful observance of Islam is a real and poignant one.

Several responses to this posting referred the writer to Islamic sites where the opinion of ‘*ulama* on the topic could be obtained. Then on 09.07.03 a thoughtful response was posted which argued that since “the Halifax is an institution which makes vast sums of money on Interest based transactions” and “we all know the seriousness of getting involved with Riba (Interest)”, then “the only thing now is for the brother to have the courage to do what is right”, and turn down the job offer. This writer then made the interesting observation that “the Halifax don’t just take anyone on so the brother must have some skills/talent that other Halaal companies will Inshallah see”.

This exchange presents in miniature the situation of the educated British-born Muslim. The young man in question had done everything which the British state, its education system and probably his parents wanted him to do. He had worked hard in school, passed exams, selected a career offering good prospects and obtained an offer of employment in a large and well-regarded company, which would have paid him a salary which would have enabled him to present himself to the world as an example of the successful integration of the second generation of immigrant origin. But then he discovered that the religious tradition of which he was at least a nominal adherent forbade him to take the job. This particular route to integration is blocked.

A crude interpretation of his dilemma would say that he faced a choice between observing his religion and earning a salary, but the last respondent put his finger on why matters are not as simple as that. This man is well educated and trained in information technology, his skills are in great demand. The Halifax is unlikely to be the only company interested in employing him. He may be able to find another job which appears to be *halal*. Alternatively, he could work for a Muslim company, or start his own company. In later sections of this study I consider some Muslims who have done just that.

One of the most striking aspects of the activities of British Muslims in recent years, indeed, the factor most responsible for bringing their concerns to the attention of the wider society, has been the explosion of internet-related Islamic activity. There are countless Muslim websites, and many of them are of very high technical quality. There are evidently many people with qualifications in website design and other computing skills who want to use these skills in the service of Islam. They do not

face a simple harsh choice between serving the *din* and employing their technological talents, they can combine the two. Of course, much of the work undertaken by Islamic organisations is of a voluntary nature, rather than being a remunerated career, but the pool of talent whose existence it demonstrates must surely also flow into the production and marketing of Islamic financial products. In other words, there are (predominantly young) British Muslims who want to serve Islam, want to use their laboriously acquired qualifications and want to get paid a decent salary for it all.

It is worthy of note that the Canary Wharf complex in East London, which is now one of the centres of the financial services industry in Britain, has a Prayer Room. This is not specifically intended for Muslims, it is a multi-faith facility created largely because of the personal conviction of a leading figure in the development of Canary Wharf, Robert John (*The Wharf* 29.04.04), who evidently saw no conflict between spiritual concerns and economic ones. This may have been what was in the mind of a correspondent to www.salaam.co.uk who enquired (on 13.03.03) whether anyone knew of a prayer room in the area. One respondent advised her (same date) that “Jumaah prayers take place in a small room near Westferry Circus” but that she might also like to know that both Credit Suisse First Boston and Morgan Stanley had prayer rooms for their Muslim employees. I cannot vouch for the accuracy of these statements, but it seems very likely that such large international companies would wish to be seen to be accommodating Muslims. The information prompted a scandalised posting (on 26.03.03) saying simply: “haram institutions having places to pray!?! is prayer even accepted in places where haram is being committed???”. The

question of whether prayer performed in a *riba* based company is acceptable to Allah is a nice theological point beyond my remit.

Student loans

In considering the position of the young professional Muslim, we should remember that an area where the dilemma of whether to take out an interest-bearing loan is likely to become more serious in future is that of student fees and maintenance. In the past students in Britain were supported entirely by non-repayable grants, so this was not an issue for Muslims, but in recent years these have been replaced by loans. It is at first sight surprising that more consultation was not undertaken with Muslim representatives when these were introduced. I have not heard of any such approaches, and indeed was informed by the chair of the business and economics committee of the Muslim Council of Britain, M. Iqbal Asaria (personal communication 09.03.04), that it had never been contacted by the government on this issue. A matter of weeks after this communication from Mr Asaria, the MCB reported in their electronic newsletter that a delegation from their organisation had met the Secretary of State for Education, Charles Clarke, on 20th April 2004, and discussed issues of concern to Muslims within the education field, including “difficulties that Muslim university students will face with respect to interest loans”. The explanation for this may be simply that awareness of the Islamic prohibition of interest among the wider society has been increasing rapidly over the last few years, after starting from a very low base, or it may reflect greater concern among Muslims about the topic.

The fact that the rate of interest charged on student loans is much lower than a normal commercial rate has enabled some commentators to argue that it is Islamically acceptable because it is no higher than the rate of inflation. There is an established and respected body of opinion that a rate of interest which merely keeps pace with inflation is not prohibited, because the purchasing power of the capital has not increased, which is the definition of *riba*. Since however both the rate of inflation and the rate of interest are liable to change without much warning, it would appear that a conscientious student would, over the course of a three- or four-year course, incur some anxiety in relying on this opinion.

Recently the government has floated proposals to increase the rate of interest on student loans to a commercial rate, and if put into effect this would make the situation much more difficult for Muslim students and their parents. The National Union of Students has, not surprisingly, campaigned against this proposal, and has apparently recognised that Muslim opinion could be a powerful ally, since (according to the communication from Mr Asaria cited above) they once contacted the MCB to seek their support for a campaign against increasing interest rates. They appear in fact to have been the only non-Muslim organisation to have approached the MCB on the subject of student loans on their own initiative.

There are some anecdotal reports of Muslim students refusing to take out loans, including those from hardship funds, because they are interest-bearing. In some cases the opposition appears to come from the parents, and it is possible that the issue is being used as a cover for a more general reluctance for their children to attend university. I am not aware of any systematic study of this problem having yet been

undertaken, but such a study is becoming a matter of urgency. Because of the vital role played by higher education in furthering the economic advancement and social integration of Muslims, any obstacle to observant Muslims taking up university places must be of great concern.

At present it is too early to say how this problem will be resolved. It is very likely that many Muslims will decide to take out commercial loans to fund their education, and either simply ignore religious scruples or justify their decision on the grounds of the overwhelming importance to the fulfilment of a wider Islamic purpose in Britain of producing a generation of highly educated Muslims. It is also possible that the situation may act as a spur to the foundation of specialist Muslim colleges, where students are funded in other ways, which could be a positive development but could also produce an undesirable dependence on grants from overseas sources.

One small but noteworthy example of an attempt to ensure that Muslims are not excluded on religious grounds from benefiting from a loan scheme was that made by the Prince's Trust. The Prince's Trust is a philanthropic organisation founded by the Prince of Wales, who is well known for his interest in Islam. It makes loans to young people to set up in business. According to the *Muslim News* of December 2001, its executive officers are concerned that young people from all "ethnic communities" should benefit from it, and to this end they obtained a *fatwa* from Shaykh Nizam Yaquby of Bahrain on an acceptable form of loan. No details were given of the precise form ruled acceptable, but the Trust's usual loans are described on its own website as "low interest", which suggests that they may fall within the definition of not exceeding inflation. Some young Muslims who had successfully established

themselves in business as a result of financial assistance from the Trust were among those introduced to the Prince on the occasion of his visit to the Groundwork Centre of Rochdale and Oldham¹.

Controversy over definition of *riba*

A striking court case (as reported by the Incorporated Council of Law Reporting at www.lawreports.co.uk) took place on 28 January 2004, which illustrates some of the problems and pitfalls of introducing references to the Islamic tradition in an English business context. Beximco Pharmaceuticals Ltd and Bangladeshi Export Import Co. Ltd appealed against an earlier judgement ordering them to repay money lent to them by the Shamil Bank of Bahrain, on the grounds that obliging them to pay *riba* upon this loan was contrary to *shari'a* and therefore could not be enforced. Permission to appeal was granted in order to clarify the interpretation of a clause included in the original financing agreement: “subject to the principles of the Glorious Shari’a, this agreement shall be governed by and construed in accordance with the laws of England”. This formula is common in contracts concluded in Muslim-majority countries. The judge ruled that although it might sometimes be appropriate to refer to a foreign legal code where one of the parties had incorporated some of its principles in a contract, the *shari'a* did not constitute a clearly set out body of law to which reference could be made. In this respect Lord Justice Potter appears to have been some way ahead of many commentators on Islamic matters, including some Muslim activists, who talk as if *shari'a* were a legal code analogous to, for example, the Code Napoleon, whereas it is more accurately described as the general spiritual approach to life which animates the jurisprudential tradition known as *fiqh*.

¹ Although since one of them had chosen to set up a shop selling “women’s high fashion club wear” he may not have been overly concerned about the Islamic acceptability of his loan

Crucially, the financing agreement was a *murabaha* contract, so naturally the Bank maintained that such contracts were Islamically acceptable and did not constitute *riba*. Since the judge ruled out any consideration of compliance with *shari'a*, English courts have been spared having to decide whether this position is correct. One imagines that, since Bahrain is a major centre of Islamic financial activity, the Shamil Bank felt some pressure to confirm that their contracts were *halal*, in addition to the normal commercial necessity of reclaiming their money. The invocation of the prohibition of *riba* in this case appears to have been a transparent attempt to avoid honouring an agreement to repay a loan. It thus illustrates the kind of abuse of the Islamic financial tradition which risks giving this tradition a bad name.

The solicitors acting for the bank in this case were Norton Rose. This firm has a specialist interest in Islamic finance², and a representative of it was a member of the Treasury working party on the topic. Norton Rose has produced an excellent briefing on *takaful* insurance to which I refer later in the relevant section of this thesis. This paper also includes the following definition of *riba*, which I consider to be the best I have seen in any source, either Muslim or non-Muslim: “‘*Riba*’ (i.e. usury, unjust enrichment or unfair exploitation) is prohibited under *Shari'ah* law. An example of *Riba* is charging interest.” (2003 p. 2). This interpretation avoids the simple identification of *riba* with bank interest which is now found very generally. The distinction was of course vital in the legal case cited above, but it is also essential to a thoughtful consideration of the problem of observing the prohibition of *riba* in modern Britain.

² see www.norton-rose.com

HSBC

Launch of Amanah Home Loan

HSBC bank, under the name of a dedicated Islamic subsidiary, HSBC Amanah, launched an Islamic house purchase scheme in the UK in July 2003. This received a great deal of coverage in the mainstream media. Most of the broadsheet newspapers ran stories on it, as did BBC radio and television news. Much of this coverage was repetitive enough to suggest that it had been largely based on a press release from the bank. The articles usually gave a brief summary of the nature of an *ijara* contract, without using the Arabic word.

The scheme was almost invariably referred to as an "Islamic mortgage", which is, strictly speaking, incorrect as the word "mortgage" refers to the first charge over the property held by the lender in a conventional house purchase scheme, and the nature of the security for the lender under an Islamic scheme is quite different. However, the term is colloquially used in Britain to refer to the actual loan itself, which is clearly what was meant here. HSBC's own customer information material always avoids using the word "mortgage", but it is possible that they permitted themselves the loose expression "Islamic mortgage" in their press release in order to engage the attention of the non-Muslim public more readily and increase the frequency with which these articles are found by internet search engines.

All of the media coverage emphasised two factors: the strength of demand from British Muslims to be able to buy houses without compromising their religious principles, and the size of the potential market for *shari'a* compliant financial

products. A report by the Datamonitor Group was recurrently cited. This report stated that Muslims in the UK had already taken out £9 billion worth of conventional mortgages, and that even conservative estimates of what proportion of this would be switched to an Islamic product if one were available, added to an educated guess about how many Muslims would not take out house purchase finance at all until an Islamic product were available, demonstrated the amount of money potentially to be made in the field. A BBCi News story (*news.bbc.co.uk* on 1.7.03) reported that gross advances could reach £4.5 billion in 2006, while the *Muslim News* (July 2003), perhaps misquoting, said that advances by this date would be £1.39 billion. The £4.5 billion figure also appears in the summary of the Datamonitor report in *New Horizon* magazine (May 2003), a specialist publication about Islamic finance. A couple of months later *emel* magazine (September/October 2003), in the article discussed in more detail below, produced a figure of £11.5 billion by anticipating 100,000 Muslims taking out loans of £115,000. In a sense the accuracy of these figures is irrelevant. The general tone of the coverage was of dazzlement at so many millions of pounds apparently just waiting to be snapped up. Nowhere was it pointed out that this is money to be lent by the banks out of their existing resources, not assets presently belonging to Muslims.

Despite this emphasis on the amount of money to be made, there was a suggestion that HSBC was doing Muslims a favour by launching this product. According to the *Financial Times* (01.07.03): “Noaman Hasan, head of HSBC’s UK Amanah arm, said the bank had received requests from the community to offer Islamic finance products”. The BBCi story already cited quoted M.Iqbal Asaria of the Muslim Council of Britain, a member of the Treasury working party on Islamic finance, as

saying that some Muslims were “wracked with guilt” at having broken Islamic law “in order to keep a roof over their family’s head”, but that “HSBC’s initiative frees them from this dilemma”. This invoked the memorable image of anguished British Muslims contemplating a choice between disobeying divine commandments and seeing their children sleeping in the streets, until rescued by a kindly multi-national bank. This is an illustration of the way that the Muslim Council of Britain’s desire to present their own campaigning efforts as successful converges with the desire of commercial service providers to appear to be simply responding to customer demand rather than trying to shape it. Mr Asaria was repeatedly quoted in the press coverage of the HSBC launch, and sometimes sounded as if he were employed by the bank.

The BBCi News site invited readers to submit comments on their experiences of using Islamic financial products in the UK and on what more providers could do. The responses may be broadly divided into three groups: the uncritically grateful, the entirely cynical and the step-in-the-right-direction schools of thought.

Some examples of the first:

“Finally, UK banking wakes up to the needs of the Muslim community. ...
Now I can use my own bank, HSBC.”

“A long-awaited product range that the Western Banks could have offered years ago ... I’ll be quick to switch my mortgage over.”

Quite a number of correspondents were sceptical about HSBC's motives or saddened that it was a non-Muslim bank which had been the first to take this step, but none the less glad that somebody was doing something.

“Not surprising that HSBC have taken this action as they have a large presence in the Middle East”.

“Islamic mortgages are by no means a perfect solution to Muslims, but at least they are a step in the right direction at avoiding dealing with interest based products.”

“As for those who say its [sic] interest dressed up as rent then all I can say is at least we are trying to follow a more Islamic path and these schemes have been approved by our scholars hence we have no guilt.”

This last comment confirms the wisdom of HSBC's decision to devote two pages of their explanatory booklet to a summary of the career achievements of the members of Amanah's Shariah Supervisory Committee.

A significant minority of writers remained resolutely unimpressed.

“I can't believe that people are falling for this. You can call it anything you want – at the end of the day, what the customer is paying is interest to the banks, except it's dressed up as 'rent' ... one could take the same view of the current system and think of the monthly mortgage payments as rent.”

This writer has spotted something which I consider in more detail below; the question of in what sense the “rent” payments under an *ijara* contract are truly rent rather than a fee for borrowing money.

“I’d like to know whether the ‘Islamic’ mortgages will work out more expensive than the ‘non-Islamic’. So instead of paying interest, at say a modest 5%, I could be ripped off by someone exploiting my guilt?”

This jaundiced correspondent has put his finger on one of the key issues concerning the introduction of Islamic financial products, namely to what extent the market for them can be considered a captive one. Not of course captive in the usual sense of customers having literally no access to an alternative, but in the sense that Muslims feel unable to consider alternatives. It points up the vested interest which providers of Islamic products have in reinforcing pressure for Muslims to conform to the prohibition of *riba* and in rigidifying the definition of it. Any increase in secularism or religious indifference among British Muslims would be very bad news for the banks which have invested heavily in providing Islamic products. I consider this point at greater length in the *Analysis* chapter.

Anyone who has followed recent debates on globalisation, associated in particular with the work of Antony Giddens and that of Roland Robertson, or on the emergence of a transnational Muslim identity (see e.g. Mandaville 2001), must be struck by HSBC’s slogan: “the world’s local bank”. This juxtaposition of globalism and localism chimes satisfyingly with the themes of these bodies of work. It is the

perfect slogan for the age of “glocalisation”, a term originally coined by Robertson and now prominent in the literature on globalisation which is intended to express the intersection of the forces of globalisation with the enduring specificities of local neighbourhoods.

Whether a multi-national company can ever truly appear to be local must be doubted, and this slogan acquired macabre overtones after the tragic events of 20 November 2003, when Turkish extremists bombed the Istanbul office of HSBC at the same time as the British consulate, since they apparently considered HSBC to be a symbol of British interests and not their local bank at all.³

Another bitter irony for British citizens of South Asian descent is that HSBC is one of the British companies to have opened call centres in India and Pakistan to handle telephone enquiries from British customers, because wages there are a fraction of those in Britain. HSBC’s main centre in the region is in Hyderabad (*The Independent* 10.11.03). The generation who migrated from the Indian sub-continent to Britain to seek work are now confronted by the prospect of their children struggling to find employment with British companies who are relocating offices to their own countries of origin. This cruel twist of history is surely not lost on the British-born Muslims whom HSBC is targeting.

Only certain branches, apparently those in areas identified as having sizeable Muslim populations, were selected as outlets for Amanah. They can normally be identified

³ Despite this experience it is now reported that HSBC is anxious to open an office in Baghdad (*The Wharf* 29.4.04), the desire to continue their programme of embedding local branches of a global company apparently being stronger than fear of the regular bomb attacks on foreign organisations in post-war Iraq.

by a passer-by because they display a poster advertising Amanah products. The poster in question shows a series of internal and external views of attractive houses above a panel of text with the message: “Home Finance and Banking in accordance with Shariah. Talk to us today”. At the top is the heading “HSBC Amanah Finance” and at the bottom the usual HSBC name, symbol and slogan, “the world’s local bank”. No explanation of the term “shariah” is given, presumably on the grounds that anyone unfamiliar with its meaning is unlikely to be interested in the product.

I visited a branch in central Leeds to obtain further information. The head office for the personal banking side of Amanah is located in Leeds (the corporate banking headquarters is in London), probably because of the large concentration of Muslim population in West Yorkshire. In addition to displaying the poster described above in their window, this branch had a free-standing display advertisement several feet high, similarly worded, standing just inside the entrance, which seemed to me to be a very high-profile form of promotion. After some misunderstanding with a member of staff who seemed surprised that a non-Muslim was interested in this product, I obtained a copy of the booklet about *shari’a* compliant home loans.

Information about HSBC’s Islamic products can easily be found on the internet. The Amanah division can be reached from the main HSBC site but also has its own site (www.amanahfinance.hsbc.com). From the time of launch until the present (21.06.05) there has been a permanent advertisement for Amanah on the www.salaam.co.uk site, which connects to its home page with a single click. Over the period of my research *Salaam* has also featured numerous advertisements for

telephone companies, booksellers and Islamic software packages, and consistently gives the impression that its target readership is well educated, comfortable with technology and in possession of a reasonable disposable income. It is probably safe to say that this is the type of customer targeted by HSBC.

HSBC Amanah took out a full page advertisement on the back cover of the launch issue (September/October 2003) of *emel*, which describes itself as “the muslim lifestyle magazine” (note the modish absence of capital letters). Amanah and *emel* are a perfect match; in fact it is difficult to distinguish some of the illustrations in the latter from those in the promotional booklet for the former. The HSBC booklet features numerous shots of luxuriously appointed domestic interiors, differing from those in a typical estate agent’s publicity material only in the absence of the wine rack normally favoured in pictures of desirable kitchens and the presence of a few carefully positioned examples of Islamic arts and crafts. *Emel* contains articles on how to create an Islamic garden (rather questionably headed by the Quranic phrase “gardens under which rivers flow”) and how to “re-create the Moroccan look in your home”. The ideal *emel* reader appears to want to express their Muslim identity through spending a lot of money on home improvements.

To demonstrate that there are indeed plenty of Muslims out there in a position to do this, this issue also contains an article (by a representative of Ahli United Finance, to which I refer in a later section) on Islamic home purchase, with an accompanying chart which claims that 400,000 UK Muslims earn more than £40,000 per annum. No source is cited for this figure and it should probably be treated with caution, especially as the chart describes the total number of UK Muslims as 1.8 million, a

figure which the release of data from the 2001 census had already shown to be .2 million above the actual figure. What is more, the article refers to all of the putative 1.8 million as being “in the property market”, an assumption which cannot be sustained. A significant number of Muslims must be considered to be excluded from the property market because of their low incomes, an inconvenient fact which this article entirely ignores.

This glossy magazine is overtly aspirational and few readers are likely to take it as an accurate representation of the lifestyle of the average British Muslim. Given the strong aspirational elements also apparent in the bank information booklet, however, we should hesitate to accept it as a simple factual summary. It also presents an idealised British Muslim lifestyle – ideal both for those living it and those making a profit out of financing it.

Religious Advisors

The HSBC have set up a Shariah Supervisory Committee for Amanah, which initially consisted of three scholars, on the same model employed in Muslim-majority countries. (It is normally considered advisable to have an odd number on the committee so that in case of disagreement the majority opinion can be accepted.)

The leading member is Shaykh Muhammad Taqi Usmani, who is one of the most prominent names in the field of Islamic finance at the present time. He is Professor of Religious and Arabic Sciences, Fiqh and Hadith at the Darul Uloom in Karachi, Pakistan, and a permanent member and present Deputy Chairman of the Islamic Fiqh

Council of the Organisation of the Islamic Conference, based in Jeddah. His father, Muhammad Shafi Usmani, was formerly Grand Mufti of Pakistan. Muhammad Taqi Usmani himself was formerly Chief Judge of the Shari'a Appellate Bench of the Supreme Court of Pakistan, and is nearly always accorded the title of "Justice (Retired)". He has written extensively on Islamic finance and, as we shall see, advises many banks and other organisations on *shari'a* compliant financial products. (This information is summarised from the biographical information provided by Amanah and from www.albalagh.net/taqi. The latter site provides a complete list of Usmani's publications.)

The committee also includes Shaykh Nizam Yaquby, another name which will recur frequently in this study. He is based in Bahrain, from where he works as "an independent Shariah consultant", according to this biography on the Amanah site. Note that modern communications technology has made it possible for a scholar to be based in Bahrain but still provide religious guidance to organisations in many other parts of the world. Unlike Shaykh Usmani, Shaykh Yaquby was educated in secular western institutions; he obtained a BA in Economics and Comparative Religion from McGill University, Canada, and is currently working towards a PhD in Islamic Law at the University of Wales.

The third member of the committee is Shaykh Muhammad Elgari, who is Associate Professor of Islamic Economics at King Abdulaziz University, Jeddah, and also Director of the Centre for Research in Islamic Economics there. He is a member of the Islamic Fiqh Council of the OIC. Like Yaquby, he obtained a conventional

academic qualification in economics, in his case a PhD from the University of California.

At the time of the launch of Amanah home loans, these were the only three members of the Shariah Supervisory Committee. Now, though, a fourth name has been added, that of Muhammad Imran Ashraf Usmani. Although this is not actually stated on the Amanah site, he is the son of Muhammad Taqi Usmani. He is now also becoming an established authority in the world of Islamic finance. He studied for a PhD in Islamic Economics at Karachi University and is now, like his father, a lecturer at the Darul Uloom in Karachi.

How the Amanah Home Loan Works

I turn now to a detailed consideration of the nature of the HSBC Amanah home purchase finance scheme. This employs an *ijara* form of contract, but it is noticeable that the Arabic word is never used in the booklet which explains the scheme to potential customers. None of the Islamic financial service providers I have studied either employ Arabic terminology as a matter of course or assume any understanding on the part of their customers of traditional Islamic forms of contract. As a general rule, it seems that only Muslims who have made a particular study of the subject or who are involved in an activist organisation have a good understanding of the technicalities of Islamic contracts. The typical potential customer appears to place his or her trust in the approval of a particular scheme by an *'alim*.

A difficulty which may immediately strike the reader is the exclusion of flats from the scheme. It is clearly stated (*HSBC Amanah Finance* p.7) that “the plan does not

support the purchase of flats”. Only freehold domestic residential properties and leasehold domestic residential properties with an unexpired lease term of at least fifty years plus the term of the finance are eligible for the scheme. The exclusion of flats is presumably necessitated by the complexities of leasehold arrangements in English law, whereby, in a building which is divided into flats, the freehold is owned either jointly by the owners of the flats or by an entirely separate individual or corporate entity. The legal intricacies of the purchase of leasehold properties can be an obstacle even for someone using a conventional mortgage, and it would be impossible to set up an *ijara* contract for a flat where the freehold is owned by a third party. This restriction is therefore understandable, but must exclude a large number of young professional Muslims, particularly in London, who are otherwise just the people the bank seeks to attract. It remains to be seen whether this factor will significantly limit the appeal of the scheme. The bank will accept joint applications from up to six people (ibid. p. 8), and it is possible that young people who are keen to avoid conventional mortgages may group together to buy a house under this scheme rather than buying flats individually.

The essence of the scheme, set out in simple stages on pages 6 and 7 of the booklet, is that the bank buys a house, registers title in its name and registers a tenancy in the occupier’s name. The occupier then makes monthly payments which are broken down into three separate elements: rent for use of the proportion of equity still owned by the bank, payment for the purchase of further shares of the equity, and a fee to cover buildings insurance. The insurance cover has to be held in the bank’s name (ibid. p.9) because the bank is the legal owner of the property. The period of repayment can be any number of years between seven and thirty (ibid. p.8), and it is

also possible to make additional payments of at least £5,000 every six months, or to repay the loan in full and purchase the property outright at any time. When repayments have been completed the tenancy ceases and title to the property is transferred to the occupier. (It is at this point that the second payment of stamp duty used to be necessary.)

The most obvious difference from conventional house purchase arrangements is that the purchaser has the legal status of a tenant and not an owner. This means that in the event of default on repayments the bank would protect its position not by repossessing the property under the terms of the charge it holds over it, as with a conventional mortgage, since it is already the sole legal owner of the property, but by seeking to terminate the tenancy. The practical consequences for the former occupier who finds himself homeless may be the same, but the legal implications are quite different. The introductory booklet fails entirely to mention what happens in the event of default and avoids lingering on the tenant status of the occupier, placing heavy stress instead on the benefits of “buying your home without compromising your beliefs” (ibid. p.19).

One imagines that the psychological effects of being a tenant rather than an owner, in a society which places such a high value on property ownership, must be a significant deterrent to some potential customers, particularly so to those who have already purchased a home under a conventional mortgage and are now being invited to take out a re-financing package from HSBC. Press coverage of the launch of the Amanah house purchase scheme stressed the number of Muslims who would potentially transfer to Islamic “mortgages” from conventional ones, and it is evident

that this featured largely in HSBC's calculations of the size of the market for *shari'a* compliant products. It remains to be seen whether the desire to avoid *riba* will prove stronger than the disinclination to change from an owner to a tenant.

The working paper produced by the Council of Mortgage Lenders in November 2001 entitled *Islamic Mortgage Finance* shows that the implications of *ijara* contracts falling under the provisions of English tenancy law worried the Council's members considerably. While the bald statement (p.7) that "the financier can evict the customer for failing to make payments of rent" might make it appear that the occupier has less protection than under a conventional mortgage arrangement, subsequent discussion shows that, on the contrary, the banks were concerned that "the customer may actually have tenancy protection, which may stop the financier from realising the property in the case of default on the mortgage [sic]" (ibid. p. 19) - in other words, that the bank would not be able to evict the occupier and re-sell the property because the customer would be covered by those legal provisions which make it difficult to evict a tenant without a lengthy court process. The Council was also worried that "apparent ownership of the property" could "have a cost implication when dealing with issues such as maintenance of the overall structure of the dwelling" (ibid. p.19), because it is normally a landlord's responsibility to pay maintenance costs. This section of the paper concludes by suggesting that "the Government could consider amendments to the relevant statutes and legislation to obviate any inappropriate obligations outside the spirit of these mortgage plans" (ibid. p.19). The obligations considered inappropriate are all of those normally falling on a landlord rather than on a mere financier.

It thus appears that, legally, the purchaser has the worst of both worlds, being denied both the status of ownership, before completion of repayments, and the protection of a tenant.

A major problem with both *ijara* and *murabaha* forms of house purchase has been that tenants of local authorities and housing associations who would normally be eligible to benefit from various forms of discount and financial assistance when purchasing their homes under one of the “right to buy” schemes cannot utilise these forms of contract and still qualify for assistance. The involvement of a third party in the purchase process cannot be incorporated into any of these assisted purchase schemes (ibid. p.12). This provision is intended to prevent the schemes being abused to make a fast profit by rapid re-sale of the property. The implications in the case of Islamic house purchase are undesirable for the banks, who naturally want to maximise the potential market for these schemes, for Muslim tenants, who will be excluded from purchasing their home in a way they consider acceptable, and for the government, which wants to release social housing for those who will never be in a position to become owner occupiers (ibid. p.11). There is therefore a strong desire by all parties concerned to remove these obstacles, and it is one of the issues which the Treasury working party has considered. At the time of writing (late June 2005) I am not aware of any progress having been formally announced.

HSBC has taken a more cautious approach to lending under the Amanah scheme than under some more conventional schemes. A minimum deposit of 10% of the value of the property is always necessary under this scheme, and the bank reserves the right to request a higher deposit (*HSBC Amanah Finance* p.8). There is no question of

reckless lending of 100% of valuation under an Islamic contract. The possible difficulties in evicting the occupier in the event of default, compounded by the fact that borrowers who become unemployed do not qualify for state assistance with payments under an *ijara* contract as they do with a conventional mortgage (Council of Mortgage Lenders 2001 p.16), seem to have inclined the bank to caution.

This brings us to the central dilemma of Islamic finance: the tension between a merely formal avoidance of *riba* and an attempt to enter into the spirit which prompted its prohibition, the wish to avoid exploitation of the weak by the strong. Islamic financial contracts have often been accused of simply disguising interest rather than truly renouncing it (e.g. Rodinson 1977 [1966] assumes that this was largely the case). Those who take this view will feel vindicated by the statement in the CML's paper (2001 p.26) that under an *ijara* scheme the bank will "allocate lease rental payments to mirror the economics of a conventional mortgage (i.e. principal and interest)". It appears that the amount charged as rent for the proportion of equity still owned by the bank is fixed to equal the amount normally charged as interest on a loan for house purchase.

An even more damning admission that the avoidance of *riba* is, for the banks participating in the Council of Mortgage Lenders, a purely formal issue, comes on the next page (ibid. p.27), in the statement that "the legal form of a transaction guides whether it is permissible or not under the interpretation of Islamic Law and not necessarily economic characteristics". In other words, for a contract to be ruled *shari'a* compliant there is no need for the lender's profit to be any lower than in a conventional loan arrangement, for it to be made any easier for the poor to obtain

housing, or even for the bank's ability to recoup its money to be any less secure than under normal mortgage arrangements. The paper is careful to point out that "any amount outstanding after the disposal of the asset will be recovered from the Customer as would be the case in a normal financing scenario" (ibid. p.26). So much for the Islamic tradition that a debtor in reduced circumstances cannot be compelled to repay a loan.

At several points in this working paper, the name "HSBC" occurs instead of "the Bank" or "the financier". This may be due to the typist having missed a few places when converting a document produced as a specimen contract for HSBC to an anonymous form. It therefore seems safe to attribute the arguments outlined in this paper to HSBC and not just to the CML. In going to such lengths to ensure that their Amanah house purchase scheme will not be any less advantageous to the bank than normal forms of loan they have put themselves in the position of having to deny that this scheme in any way complies with the spirit of *shari'a*, as opposed to the letter.

This point was picked up by some of the writers to BBCi's discussion forum on "Islamic mortgages" (*news.bbc.co.uk* 09.07.04).

".... Crucially, what happens when a 'tenant' is struggling to make the 'rent' – in any Islamic business, the service provider has to share any risk with the purchaser".

"This is all very well, but I am interested in finding out how much down-payment one would have to make ... We need to ascertain whether this really

helps people on low income and/or gives them the same opportunity as others!”

The whole point of the prohibition of *riba* is to avoid a fixed rate of return on a loan. It is the fact that bank interest is fixed at a pre-determined rate which makes it objectionable. If the return on an *ijara* loan is fixed at exactly the same pre-determined rate, it is difficult to dispute the claim that such contracts are simple “paper-shuffling” which deliver the same reliable profit by technically different means. The rejection of Islamic financial products on these grounds is found both from those who see this as a reason not to trouble with them at all, and at the other end of the spectrum from those activists who argue that the present world financial system is so inextricably involved with *riba* that it is impossible to accept any products from a institution which forms part of it.

None of the HSBC material I have seen touches on the question of what if anything should be done about substantial rises or falls in the value of the property during the period of repayment, particularly where a property is sold before completion of repayment. This is probably because the bank did not consider it necessary for anything at all to be done about this. With a conventional mortgage, the customer simply repays the amount originally borrowed plus fixed interest. If the house has substantially increased in value over the period of the loan, as is usually the case, this is the customer’s good fortune, the bank does not expect to share in the profit. If on the other hand the house has fallen in value, as may be the case during periods of generally falling property prices or in particular areas experiencing economic decline, this does not excuse the customer from having to repay the amount

borrowed when the property cost more. HSBC evidently took it for granted that an Islamic contract would conform to this custom.

It is possible however to incorporate the sharing of profits and losses deriving from movement in house prices into an *ijara* contract, and this is arguably more in keeping with the spirit of the Islamic financial tradition, in which profits derived from trading in the open, unpredictable market are the preferred form of return on investment.

This has been done by Ansar Finance, to whom I now turn.

Ansar Finance

Ansar Finance is a small company based in Manchester. It was founded in 1994 by Ali Akbar, an optometrist by profession, who remains as director but has reduced his day-to-day involvement in the business. Originally Ansar was run entirely by volunteers in what time they could spare from their paid work, but as it developed this became impractical and it now has two salaried office staff.

I initially became aware of Ansar through discovering their striking website while undertaking some general searches for sites related to Islamic finance. I kept returning to this site because I found it eye-catching and interesting. The home page at that time showed the Quranic text: “Believers! Hold Allah in fear and give up all outstanding interest if you do truly believe. But if you do not do so, then be Warned of War from Allah and his Messenger” (2:279). The site has now been redesigned to provide more factual information about Ansar’s products and fewer Quranic

exhortations, in a way typical of Islamic organisations as they become more established.

Eventually I got in touch with the company to request further information. Ansar says in its publicity material that it holds regular presentations for interested members of the public, normally once a month, and I made several requests to be notified of the date of the next one, but was never able to confirm a definite date. At first I thought that this might be due to some reluctance to have non-Muslims attending, but now think that it was simply because public presentations are not in fact held quite as regularly as the publicity material implies. In the end I travelled to Manchester and visited the office.

The name “Ansar” originally referred to those inhabitants of Madina who gave aid and support to the Prophet and his Companions when they first migrated to that city from Mecca. It may be translated as “helpers”. It is quite a popular name for Muslim organisations, which can cause problems for Ansar Finance, who need to distinguish their organisation from others with similar names (including at least one suspected terrorist group).

The offices consist of a small suite of rooms above a fast food takeaway in a row of shops in an otherwise residential area of the Levenshulme district of Manchester. The neighbours include an adviser on immigration issues and an accountant with a Muslim name, which suggests some degree of Muslim residential concentration in the vicinity. Above the street door a prominent name board is displayed which says

“Ansar Finance: an interest free finance initiative” and gives their telephone number and website address.

I was very courteously and helpfully received, especially considering that I had arrived without any warning. I was treated to a version of the standard presentation delivered just for me by Ajmal Saleem Ramzan, the chief executive officer, and provided by his assistant with a cup of tea in a mug illustrated with Winnie the Pooh.⁴

Mr Ramzan also very kindly lent me his own copy of the work on Islamic finance by Muhammad Taqi Usmani (see bibliography), a book which he had already, in our email correspondence, advised me to read. Shaykh Usmani, who as we have seen is one of the main *shari’a* advisers to HSBC Amanah, also approved the Islamic Cooperative Housing Corporation in Toronto, Canada, on which Ansar Finance was modelled.

Standing against one wall of the main office was a display board bearing a number of posters, and Mr Ramzan asked me to sit in a position where I could see these clearly. The messages which the posters bear are a key part of the presentation. The quotation cited above, to the effect that those who pay or receive interest are at war with Allah, also featured on the posters, and is evidently a favourite Ansar text.

The other main themes of the posters were the amount of money paid as interest by Muslims to non-Muslim banks and the suffering caused to developing countries by

⁴ I mention this detail only because it is as far removed as could be imagined from the stereotype of the grim Islamic activist.

the burden of debt repayment to industrialised countries. These themes were linked at one point by the statement that the banks used their interest receipts for *zulm*. This is a Quranic term usually translated as “oppression” but which conveys a weight of religious condemnation not quite present in the English word.

Mr Ramzan explained that all this interest money was passing into the hands of a very wealthy few. This was wrong, because “we should not be ripping each other off, we are a family”. It was not clear whether the first person plural referred to Muslims, with the *umma* here being equated with a family, or to humanity in general, and this ambiguity was probably deliberate. The display stressed the fact that this is money which is passing out of the Muslim community into the hands of non-Muslims, but Mr Ramzan did not dwell on this point in his talk, presumably out of courtesy to me as a non-Muslim.

Ansar is a non-profit-making membership based organisation. The key element of the scheme is that all members pay a minimum donation of £10 every month. This is regarded as *sadaqa*, charity. Members who are able and willing to do so may pay a larger amount, but this does not entitle them to any preferential treatment or to a larger loan, it is a payment made purely as *sadaqa* to help less fortunate members. An outside observer would be tempted to call this monthly payment a fee or subscription, but these terms are never used in Ansar’s information material, it is always referred to as a donation, and Mr Ramzan’s belief that it is made as part of a religious obligation to give charity appeared sincerely and deeply held.

These monthly payments form an ever increasing pool of money which can then be lent out to members. The information booklet invites us to consider what could be done with the £20 million per month that would be generated if all of the 2 million Muslims in Britain participated in the scheme. Once again the over-statement of numbers (there are only about 1.6 million Muslims in Britain and around a third of those are under eighteen) should not cause us to overlook the essential point that a scheme of this type could indeed potentially create a very large concentration of wealth.

Originally Ansar dealt only in personal loans, and this is still the larger part of their business. The newsletter for February 2004 stated that up to that date £575,000 had been lent, of which £142,000 was given out in 2003. The bulk of this figure is made up of relatively small sums. A member has to make monthly payments without any default for a qualifying period of a year before becoming eligible for a loan.

The amount repaid is the same as the amount borrowed. The example given in the information booklet is that a loan of £5,000 repaid over 36 months will require a monthly payment of £138.88. This loan is referred to in the heading of the chart as “qard hasana”, the “good loan” of Islamic tradition, that is, one which is made because an individual needs the money for a legitimate purpose with no intention to profit from another’s need. The chart then lists typical repayment figures for a loan of the same size over the same period from some major banks, ranging from the Bank of Scotland at £165.20 to the Halifax at £176.25. It also shows the total amounts paid as interest, which in the case of the most expensive bank, the Halifax, is £1,345.32. (I should here disclaim any responsibility for the accuracy of these

figures.) Of course the borrower is also required to continue the minimum monthly membership donation of £10, but over 36 months this would be a mere £360, and it seems indisputable that borrowing money from Ansar could indeed save a member “thousands of pounds of interest payments”.

The approval criteria for loans differ from those of commercial organisations in that the objective is not to persuade the people most able to repay (in other words, least in need of the money) to take out as large a loan as possible. The “terms and conditions of membership” document states that “members should apply for the smallest loan that would solve their need and try to repay the loan in the shortest time possible so that the funds are more quickly available to other members”. This is partly because this is a practical necessity for an organisation with very limited funds. While the information booklet states that loans may be taken out for “any halal purpose”, the terms and conditions state that at times when demand outstrips supply requests will be ranked in relation to a system of prioritisation within which “reduction of involvement in interest-related transactions should always be a high priority”. The examples of reasons for taking out a loan given in the information booklet are:

“emergency, pay off interest-based debts, children’s marriage/education, change of car, holidays”, and this list seems to be arranged in descending order of importance.

The terms and conditions state that “the Company will have no hesitation in commencing legal proceedings against any member who wilfully seeks to avoid his commitment to repay his loan”, but Mr Ramzan told me that so far it has never been necessary to do this. He claimed that in the ten years Ansar has been involved in personal loans it has never once had a case of default. It has on occasions been

necessary to reschedule repayments to help people experiencing financial difficulty, but no member has ever ceased to make payments altogether. The key word in the statement above which reserves the right to commence legal proceedings in the event of default seems to be “wilfully”. This implies a distinction between those who are genuinely unable to maintain their original repayment commitments because of unforeseen financial hardship or changes in circumstances, and those who attempt to avoid completing repayment even though able to do so. The “terms and conditions” document opens with a lengthy quotation from the Quran which includes the injunction: “if the debtor is in straitened circumstances, let him have respite until the time of ease, and whatever you remit by way of charity, it is better for you” (2:280). This cannot be reconciled with an indiscriminate enforcement of repayment terms regardless of what hardship this may cause the borrower, and it is evident that Ansar (unlike HSBC) does not attempt such enforcement.

It is very likely that members of a small organisation sharing strong religious convictions will feel a loyalty to other members and to the organisation as a whole which will operate as a powerful deterrent to default. There is also a substantial amount of personal and social contact between members, which will increase the embarrassment factor of failure to repay. Ansar is thus able to take a much more sympathetic and individualised approach to dealing with defaulters than a large company with an entirely impersonal relationship with its customers could ever do. The dilemma for Ansar will be that as it grows in size the bonds between members will be stretched and the sense of personal loyalty diminished, so that the deterrents to default will be weakened. Not only is the number of members steadily increasing, but their geographical distribution is spreading beyond Manchester to other parts of

the country. (At present two-thirds of members are resident in Manchester and one-third in other parts of the country.) In this way Ansar is likely to become a victim of its own success, and it will be interesting to see how it deals with this problem.

It is a condition of membership of Ansar Finance that all members offer a discount on their professional services to other members. This fact is mentioned almost in passing in the information booklet but is of potentially great significance. It creates an incentive to take one's custom to other members, rather than dealing with non-Muslims or Muslims who do not share Ansar's convictions, and thus operates both as a powerful form of business networking and a means of Muslim self-help. The February 2004 newsletter contains an illustrative list of some of the professions represented among members. At that date there were a total of 786 members, who included, among others, 23 doctors, 11 dentists, 11 pharmacists, 20 computer professionals, 27 engineers, 16 accountants, 2 barristers, 10 solicitors and 29 taxi drivers. The present Deputy Lord Mayor of Manchester, Afzal Khan, is a director of Ansar Finance Group. It would appear to be possible for a Manchester Muslim to supply all of his or her business and personal needs from within Ansar's membership. One interpretation of this would be that the very close-knit social networks of the first generation of South Asian immigrants, who depended on each other for help because of the absence of alternatives in a hostile foreign land, are being re-created in a more formalised way among the second generation.

Ansar has now moved into the provision of loans for house purchase. This part of the business is undertaken by Ansar Housing Limited, which is constituted as a separate entity. So far this has been undertaken on only a very small scale. The February 2004

newsletter stated that eight houses had been purchased and five more were being processed; Mr Ramzan told me when I saw him in April 2004 that they owned fourteen properties. At present the maximum loan is £100,000, which severely restricts the market for which they can cater. Enquirers from London have apparently reacted with horror and disbelief at being told of this upper limit. Until recently it was not an undue problem in Manchester, but sharp increases in property prices in the more desirable parts of the city over the last two years or so have created difficulties. Ansar is very conscious that demand for *halal* home finance far exceeds what they are able to supply, and aware that the funds available cannot be adequately increased simply by relying on the monthly *sadaqa* donations. It is now seeking investors with somewhere in the region of £10,000 (or, in an ideal world, much more) to spare to contribute to the fund for the purchase of property and in return receive *halal* dividends. These dividends come from sharing any profits made on the house purchase loan scheme after subtracting administrative costs. In the first two years this scheme did not make any profit but in the third year they were able to pay a dividend of 3%. It is anticipated that profits will rise as the number of properties increases and administrative costs per unit therefore fall. Emphasis is placed, however, on the fact that no dividend of any size can be guaranteed, as this would make the investment *haram*.

The house purchase scheme employs an *ijara* contract. The property is purchased by Ansar and registered in its name and the occupier then pays rent for the use of the property plus payments towards purchase of further equity. The proportion of equity purchased can be varied to suit the circumstances of the occupier. The amount paid as rent falls as the proportion of equity owned by the occupier rises, so the latter can

either make up the difference by paying more towards purchase, or benefit from reduced overall payments. The information material states that there is no time limit within which completion of purchase of the total equity must be made, although Mr Ramzan told me there was a requirement to purchase a minimum of 4% per year.

Ansar requires an initial deposit of 20% of the valuation of the property, which is the same as the Bank of Kuwait and double HSBC's minimum deposit. It does however make it easy for prospective buyers to begin saving this amount, and makes use of the money deposited to advance the scheme as a whole. The prospective buyer must first become a member of Ansar Finance. All members of Ansar Finance Limited are automatically members of Ansar Housing Limited through being allocated one free share in the latter. The aspiring home owner then commences saving towards the 20% deposit by purchasing Preference Shares in AHL in units of £100. (Payments of less than £100 can be made but will be treated as instalments towards £100 units.) Dividends will be paid on these savings every year the scheme makes a profit, in the way already described. When the member has purchased shares to the value of 20% of the price of his wished-for house he then becomes eligible for a loan to the value of the remaining 80% under the *ijara* scheme. The explanation of this process on the website concludes with the assurance that if the member has been unable to save up the 20% during his lifetime his savings can be transferred after his death to his children to start them off on their own house purchase (which perhaps conveys rather too vivid a sense of the situation of the first-time buyer in the present British property market).

Ansar's information booklet says that they use "the Shared Ownership Scheme (S.O.S.) based on the Ijara (rental) mechanism". A separate leaflet about Ansar Housing Limited says that it provides "Halal mortgages [sic] based on the Islamic principle of shared ownership (Musharakah)". The explanation of the "S.O.S." scheme on the website says that "this process forms a partnership (Mudarabah) relationship with [sic] the institution and the individual". Such a free and inconsistent use of Arabic terminology is thoroughly confusing.

It is certainly true that this form of house purchase constitutes a shared ownership scheme, and it is interesting to a writer based at the Open University that the wording here implies an Islamic origin for a mechanism for giving lower income families access to home ownership which is usually considered to have been pioneered in the development of Milton Keynes. The term *musharakah* usually refers to a situation where two or more individuals jointly invest in a business enterprise, and since Ansar Housing Limited has been set up as a limited company which sells shares and pays dividends this use of the term would appear to be accurate. The term *mudarabah* normally refers to a form of investment where the financier takes no active part in running the business but receives a share of the profits, which may also sound like a reasonable description of AHL, but the term is not normally used in relation to a limited company. I am not qualified to pass final judgement on the accuracy of the use of these terms, but I do feel that Ansar has probably been unwise to employ quite so many of them in such close proximity.

Be that as it may, the important point is that Ansar tries to stress the existence of a real partnership between the company and the investor or borrower. This conception

of the relationship explains the provision for sharing the profit when a house is sold, which may appear strange to those familiar only with conventional mortgage arrangements. When a property which is being purchased under an *ijara* loan from Ansar Housing Limited is sold before completion of repayments, any gain in value is split between the occupier and the company. If the client at that time owns more than 50% of the equity he will receive 90% of the profit, if less than 50% he will receive 80% of the profit. The 10% or 20% of the profit received by the company is thus added to the pool available for purchasing more properties, helping more people become home owners and paying more dividends to investors.

The arrangements for sharing the loss on a property which has fallen in value are, to the best of my knowledge, not explained anywhere in Ansar's information material. It may well be that this situation is not expected ever to arise. If it ever does, the question of whether the house purchaser is considered to have a relationship of *musharakah* or of *mudarabah* with the company will become much more important, because under the former arrangement losses are sustained in proportion to the amount of equity held by each party, while in the latter all of the loss is sustained by the financier, not the entrepreneur. (The glossary of terms on Ansar's website confirms this.) The overall tone of Ansar's material leads me to believe that they would try to help a member experiencing "negative equity" problems.

A serious obstacle to further growth for Ansar is that *ijara* contracts are rated at a hundred per cent under the capital adequacy rules. These are the requirements imposed by the financial regulatory authorities to ensure that lenders have enough capital to meet their obligations and withstand some bad debts without the stability of

the organisation being threatened. I have discussed the importance of the Basel Agreement in the general section of the *Riba* chapter. Conventional mortgages are rated at fifty per cent and so are *murabaha* loans. In other words, a lender whose loans are in the form of *ijara* is required to hold twice as much capital in reserve as one which makes loans in the form of conventional mortgages or of *murabaha* (which I consider in the next section). This is presumably because the regulatory authorities regard this form of loan as more risky, or simply as an unknown quantity on which they are unwilling to make a judgement until it has built up a more substantial record of performance. The obligation to keep a higher proportion of capital immediately available reduces the amount which can be invested and thus the income that the lender can earn on investment, which is one reason why *ijara* loans are more expensive than conventional ones, as the reduced income has to be made up by charges to the customer. This is of course also a problem for HSBC with its Islamic home loans, but, for such a huge multi-national company, not a particularly pressing one. For a small company like Ansar it is a burdensome requirement which limits their ability to expand.

Ansar is planning to introduce a *takaful* insurance policy, but at present (late June 2005) this has not actually been launched. The structure of Ansar Finance as a membership based organisation lends itself well to the *takaful* model of a mutual society in which profits are shared amongst the members.

In the time that has elapsed since I visited the Ansar offices, its activities have increased. As its website says (20.06.05), the reputation of Ansar has now spread “far beyond the malls of the Trafford Centre” (a celebrated Mancunian shopping centre).

Ansar has hosted a number of seminars on issues related to Islamic finance, including, on 10 March 2005, a presentation by 1st Ethical on the importance of making an Islamic will. (For more on this topic see the section on 1st Ethical in the *Gharar* chapter.) Members of Ansar's staff have given several talks in schools, because the organisation has identified the education of the next generation of British Muslims as a priority in the fight against *riba*.

The Treasury Minister Stephen Timms visited Ansar in December 2004 as part of his programme of learning more about Islamic finance. He was told by members of staff that they regard the main obstacle to the expansion of *halal* house purchase, now that double stamp duty has been removed, as being the exclusion of *shari'a* compliant forms of home loan from schemes to assist with the purchase of council houses. (This is due to the fact that the bank acts as an intermediary purchaser in both *ijara* and *murabaha* contracts, and schemes to assist local authority tenants to buy their properties forbid re-sale of the property to a third party.) Mr Timms promised to look into this and see if anything could be done. If it were possible to assist Muslims in local authority housing to benefit from loans which are both affordable and *halal*, this would do much to help the most needy Muslim communities.

In February 2005 the CEO of the JAK Bank of Sweden came to visit. This bank has no connection with Islam but opposes interest-based loans as part of a general commitment to changing the world for the better. It operates on a membership basis very similar to Ansar's, and the two organisations found it mutually beneficial to compare their operations. The account of the visit on Ansar's website says that this visit demonstrates that "the issue of an interest-free financial system is not the

concern of Muslims only, but of all fair minded people who want a just financial system”. This introduces the question of the relationship between specifically Muslim and wider “ethical” forms of finance. I consider this question in detail in the *Analysis* chapter.

United Bank of Kuwait (Ahli)

Until the launch of the HSBC Amanah scheme, the only Islamic house purchase loan readily available in the UK was that offered by the Islamic Investment Banking Unit (IIBU) of the United Bank of Kuwait.

The United Bank of Kuwait has now changed its name to the Ahli United Bank. This name change came into effect on the first working day of 2003 as a result of a merger between the United Bank of Kuwait and the Ahli Commercial Bank of Bahrain.

Because most of the material with which this thesis deals pre-dates this merger, I shall continue to refer to the bank as the United Bank of Kuwait or UBK.

The UBK’s house purchase division is known as Manzil, an Arabic word meaning house or dwelling. In an interview with *Q-News* (May 1999) to mark the launch of their *ijara* scheme, the customer services manager said that “more poetically” the word means “dwelling of the soul”, which is a clever piece of branding, neatly combining the physical and prosaic meaning of “home” with its religious associations.

In this interview the manager states that Manzil's Shari'a Advisory Board consists of Shaykhs Muhammad Taqi Usmani and Nizam Yaqubi. These scholars also advise several other organisations which I have studied, including HSBC. This information was confirmed in the promotional leaflet given away with this issue of *Q-News*, and, at the time of writing the first draft of this section, on the Manzil website (www.iibu.com). It is unusual to have only two advisers, the normal practice is to have three or possibly five so that a majority verdict can be obtained if there is no unanimity of opinion. Reliance on two well-known names rather suggests that a close harmony of approach was considered to exist between them, and that the bank was not anxious to risk disrupting it with another opinion.

On 16 May 2005 the IIBU issued a press release announcing the resignation of Taqi Usmani from the Shari'a Advisory Board of Manzil. His resignation was attributed to his wish to "pursue his academic activities and projects". Both this press release and an amendment to the section of the website dealing with the Shari'a Advisory Board state that the *fatwa* which Shaykh Usmani issued on Manzil's home purchase schemes will continue to be valid. At the time of writing (late June 2005) there has been no word on a replacement for Taqi Usmani, and Nizam Yaquby is the only active adviser for Manzil.

UBK launched a *murabaha* home purchase loan in 1997 and an *ijara* one in 1999. I will not again explain in detail the workings of *murabaha* and *ijara* schemes, since the reader should now be familiar with these. The point of interest in this case is that UBK gave as its reason for introducing the latter scheme, when some commentators might have thought that one *shari'a* compliant scheme was enough, that *murabaha*

financing was not suitable for paying off an existing interest-based mortgage. In the *Q-News* interview its representative said that this was the opinion of the Shari'ah Advisory Board. The difficulty presumably arises from the fact that no actual sale and purchase of the house is involved. The decision to introduce an alternative scheme suggests some shift in the customer base for Islamic home finance in the UK, from first-time buyers who did not consider taking out a conventional mortgage to existing home owners who have either experienced an increase in religious awareness or were prepared to compromise until an acceptable form of loan became available.

This may be related to a change of target market from a relatively affluent group of expatriate Arabs familiar with the bank in its home region to the indigenous British Muslim community. The promotional leaflet included in the issue of *Q-News* (May 1999) which contained the interview concerning the launch of the new scheme consisted partly of a questionnaire about financial situation and intentions which readers were invited to complete and return. It included questions on whether the potential customer would be likely to switch from an interest-based mortgage to a “*competitive* halal home finance plan” (my emphasis) and whether, if renting a home at present, one would consider buying if such a plan were available. It is noteworthy that the bank appears to recognise that merely being *halal* cannot entirely compensate for being more expensive. This questionnaire also asked: “In which language do you prefer to conduct your business/financial affairs?”. The magazine *Q-News* is overwhelmingly read by younger British-born Muslims, but the bank makes no assumptions on the language issue.

One point worthy of note is that *murabaha* loans can be used to purchase flats, which *ijara* loans cannot. This must be an important issue for younger and less affluent borrowers, but it does not seem to have been significant enough to prevent the *ijara* loan being more popular. Manzil loans are now also available for buy-to-let properties, a recent innovation which presumably indicates that the increase in the popularity of buying property as a source of rental income in Britain over the last few years has affected Muslims too.

At the present time (late June 2005), nearly six years after the introduction of the *ijara* scheme, the Manzil website states that it has proved more popular than the *murabaha* model because it is more flexible. It allows the customer to make additional payments or repay in full at an earlier date than originally arranged. It also offers a considerably longer repayment period – twenty-five years as opposed to a maximum of fifteen under the *murabaha* scheme, which is distinctly ungenerous compared to normal British banking practice. This brings an “Islamic mortgage” closer in line with a conventional loan. In fact, taken together, all of the differences between the new *ijara* scheme and the older *murabaha* one are moving Manzil in the direction of greater similarity to conventional house purchase loans.

Significantly, the bank has explicitly said that *ijara* is like a variable interest rate mortgage while *murabaha* is like a fixed rate mortgage. Keith Leach, UK financial services manager for IIBU, was quoted in these terms in the *Guardian* (30.01.99, cited in *BMMS* March 1999). This might be another reason why UBK wanted to introduce the *ijara* scheme, seeing the ability to vary repayments as advantageous at

a time when interest rates were historically low and almost certain to go up rather than down. The element of repayment in the *ijara* model which is referred to as rent is varied in a way that shadows interest rates. Neither UBK nor HSBC are keen to say this explicitly in their publicity material, but the paper by the Council of Mortgage Lenders (2001) on the subject makes it clear that this is the intention. A description of the scheme in the *Daily Telegraph* (6.11.02) explains that the rent is set at about 6% of the property price, rather higher than the interest rate charged on conventional mortgages at the time, and is re-set each April (i.e. the beginning of the financial year) “using the inter-bank lending rate as a benchmark”. Consideration of these details forces the realisation that this “rent” charged by the bank for use of the proportion of equity in the property still owned by the bank bears no relation to what is normally understood by rent, being calculated entirely with reference to prevailing charges for borrowing money, not to those for occupying property. In fact, the description of the bank’s profit as “rent” is a legal fiction.

The main objection to the UBK’s scheme has always been, and remains, that it requires a large deposit. Under both the *murabaha* and the *ijara* schemes a maximum loan of 80% of the value of the property is available, and the purchaser has to produce the remaining 20% as a deposit (with a slight reduction to 17% for loans over £100,000). This compares unfavourably with the percentages offered by most banks under the conventional arrangements, where, even excluding the periodic spates of reckless lending of a hundred per cent of valuation, it is usual for 90% loans to be available unless there are particular risk factors involved. In most areas of the country, one-fifth of the price of a house is a considerable sum of money. Saving it

up is as a great a challenge as was saving the entire purchase price of a property for many of the first generation of immigrants in the 1960s.

To some extent this high deposit requirement is forced on the bank by regulatory requirements. The less favourable risk weightings and capital reserve requirements – 8% rather than 4% - given to Islamic home loans obliges the bank to lend conservatively. (I considered this issue in the general section of this chapter.) It also makes it very difficult for repayment terms to compete with conventional loans.

This state of affairs caused Dr Zaki Badawi to pronounce that “for now, Islamic mortgages are only for the wealthy” (*Daily Telegraph* 30.11.02). Some of its potential customers who lack a sophisticated understanding of the financial world may find it difficult to interpret UBK’s higher charges in any terms other than greed – they feel, to put it colloquially, that they are being “ripped off”. This theme was prominent in an exchange about Manzil posted on the *Salaam* website between 31.03.03 and 15.04.03. Some writers felt that by definition an Islamic mortgage should be cheaper than a conventional one, while one wrote that UBK’s charges might be extortionate but just charging extortionate prices did not constitute *riba*.

The other main obstacle which has restricted the expansion of the UBK’s scheme is its very limited geographical reach. It has no direct physical presence anywhere in Britain outside London. (This is why the adoption of Islamic products by a bank with a universal high street presence, HSBC, marked such a quantum leap in the development of Islamic finance in this country.) To some extent physical presence has become less significant with the increasing importance of the internet, but it is

still the case that the typical British Muslim needs to make a conscious effort to track down a Manzil product and will not pass a poster advertising one in her local town centre.

An article in the *Daily Telegraph* (6.11.02) published five years after the UBK first launched *shari'a* compliant mortgages describes how “hundreds of Muslims have been contacting the United Bank of Kuwait over the past few weeks after news has leaked out that it is able to offer mortgages approved by religious leaders”. Waiting for news of the availability of one’s product to “leak out” five years after its launch can hardly be regarded as a successful marketing strategy. This article states that in those five years the UBK had offered “only 600 or so” Islamic home loans, “because few knew that the facility existed”. I do not find it credible that it simply did not occur to the bank to promote its *murabaha* loan more widely; it must have had a deliberate policy to keep lending under this scheme small. Perhaps it viewed these first six hundred loans as a kind of pilot scheme, and, after being satisfied that the rate of return was acceptable, decided to extend it.

The main subject of this article was the introduction of an agreement between UBK and the West Bromwich Building Society, whereby the latter would act as an agent for the former’s Manzil scheme. The building society had run radio and poster promotions in the West Midlands area, in which it is based, and it was these which had produced the dramatic increase in expressions of interest.

One of these eager enquirers was interviewed a year later by the *Daily Telegraph* (19.11.03). He had just bought a six-bedroom house in the Sparkhill district of

Birmingham for £250,000 with a UBK loan taken out via the West Bromwich.

Although he had already had an application for a conventional mortgage approved by another bank, after seeing a poster about the new service he decided to decline this offer and take out the *halal* loan instead, even though the repayments would be £100 per month more. Such dedication to principle is truly impressive.

At the present time, there is nothing to indicate this agency arrangement on the websites of either UBK or the West Bromwich itself, and two emails from me to the latter enquiring about Islamic home loans have failed to elicit a response. In any case, this organisation also has a limited geographical presence, though admittedly the area to which it is limited, the West Midlands, contains the largest concentration of Muslims outside London.

The example cited above of a Muslim house buyer who was prepared to pay an extra £100 per month for the sake of his principles introduces the question of whether Islamic loans are more or less risky for the bank than conventional ones. It seems probable that customers motivated by strong religious conviction, as in this case, are likely to take their obligations more seriously and are less likely to default on repayment than the general run of the population. One could also say that customers who can afford to pay £100 per month more than they need have done are by definition not in difficult financial circumstances, and in this sense the target market for Islamic products is in practice a relatively privileged one, even if not necessarily conceived as such. To some extent therefore Islamic product providers are entering a somewhat protected market.

On the other hand, if a customer does default on repayment the bank is in a more exposed position than under a conventional mortgage contract. People claiming welfare benefits because of unemployment cannot receive help to cover the repayments of an Islamic home loan as they could those of a conventional mortgage, because the relevant regulations refer specifically to “interest” payments. It is conceivable that a nimble-witted lawyer could challenge these regulations on the grounds that the spirit of the legislation was clearly to include all repayments of a home purchase loan, and the fact that the wording limits these to “interest” is a mere historical failure to foresee the coming of non-interest based loans, but the consequences for Islamic lenders of a successful challenge on these grounds would be worse than those of having to write off a few loans, because it would in effect establish a legal judgement that there is no difference between interest- and non-interest based forms of profit. If the present government is serious about encouraging Islamic loans, it will need to amend these benefit regulations.

Furthermore, repossession of the property under an *ijara* scheme is fraught with complications, since, as the purchaser is technically a tenant until completion of repayment, the bank may have to rely on the legislation governing eviction of tenants. We have already seen that this was a major source of anxiety for the Council of Mortgage Lenders (2001). At the time of writing there have not been any cases of default under an *ijara* scheme where this has been put to the test.

The situation under a *murabaha* scheme is of course different. The *fiqh* authorities state that, to be lawful, the *murabaha* contract must transfer title to the property to the purchaser at the conclusion of the original contract for the loan. The bank should

not retain title until the conclusion of repayments. In deference to this, the UBK clearly states in the description of *murabaha* contracts on its website that property is registered in the purchaser's name at the time of completion of the second sale in the transaction, from the bank to the purchaser. This is though clearly less desirable from the bank's point of view than being able to retain title, and indeed may be one reason for the shift to *ijara* contracts. Again, I am not aware of any extant cases of an attempt at repossession under a *murabaha* contract but it seems likely that such an attempt would be very messy, in a legal sense.

If Islamic house purchase loans become successfully established in Britain then there are bound to be some cases of default, and, since there is never a shortage of lawyers seeking a challenge, a body of case law will eventually be built up which will clarify the position under the English and Scottish legal systems. I have not so far come across any references in the publicity material of any of the organisations I have studied to the differences between English and Scottish law, which I find a little puzzling. It is true that there are no major differences in the way the process of house repossession works in practice in the two countries, but when it is a question of building up a new body of case law which synthesises Islamic and local tradition, the separateness of the English and Scottish precedents would certainly be significant.

There is also of course the question of insurance. As with HSBC, the UBK states that under the Manzil scheme the purchaser is not required to take out life insurance. This omission is necessary to preserve the scheme's Islamic purity, but creates a much higher level of risk for the bank, as it leaves it with no guarantee of repayment in the event of the death of the purchaser. To be precise, the website says that life insurance

is “not compulsory”. The nuances of this wording are slightly different from those of “not required”. It leaves a suspicion hanging in the air that the bank would really quite like it if the purchaser could somehow see his way to taking out a life insurance policy. Buildings insurance, says the same section of the website, is required but can be taken out by the bank rather than the purchaser. With an *ijara* contract the bank will definitely cover the buildings insurance under its “block policy”; with a *murabaha* contract the purchaser has the option of leaving it to the bank or of taking out a policy himself, if, presumably, he can do so with a clear conscience. The details of the bank’s block policy are left suitably undiscussed, so that only a particularly conscientious borrower need trouble himself about them.

Other Developments in Islamic Home Purchase Loans

There have been many developments in the provision of Islamic financial products in Britain during the period in which I have been studying the topic, and I cannot claim to have covered every provider active in the field. In the preceding sections I have given a detailed account of the most important providers of *shari’a* compliant home purchase loans. There are some other companies which have recently launched similar products, but none which are yet serious competitors.

A new website called www.halalmortgages.com claims to be a broker for, as the name implies, Islamic home loans. The significance of its appearance lies mostly in the implication that the consumer now has a genuine choice of *shari’a* compliant loans and is not limited to a choice between conventional loans and the only *halal* one around. This implication is still however a little premature. There are only four

providers listed on the site. In addition to Amanah and Ahli, which are considered in detail in my study, it deals with United National Bank and Al-Buraq.

I had not previously come across United National Bank, and I believe that it is a recent entrant to the field. It is described as registered in the United Kingdom and regulated by the Financial Services Authority. It offers an *ijara* scheme which is “reviewed” by Muhammad Imran Ashraf Usmani (son of Muhammad Taqi Usmani).

Al-Buraq had already caught my attention by running a permanent advertisement on the *Salaam* website. Halal Mortgages says of it only that “inshallah we intend to offer this lender’s product range very shortly”. Al-Buraq’s own site (www.alburaq.co.uk) is one of the most beautiful I have ever seen, but very short on details of its products. (It has sometimes seemed to me during this study that the visual appeal of a company’s website is inversely related to the quality of its products.) The name Buraq is taken from that of the winged animal on which the Prophet was miraculously transported from Mecca to Jerusalem during *Laylat al-Miraj*. The home page of the website explains that the name is appropriate because this company represents “a journey to a new type of financial service”.

Al-Buraq appears to be a British subsidiary of ABC Bank of Bahrain (of which the three major shareholders, according to this site, are the governments of Abu Dhabi, Kuwait and Libya) and to represent this bank’s attempt to move into the British market. The only product actually offered at present is an *ijara* house purchase loan offered in partnership with the Bristol & West bank. The Shari’a Advisory Board consists of one well-known name as chairman, Nizam Yaquby, supported by Mufti

Barkatullah, the Senior Imam of Finchley Mosque, and Mufti Muhammad Nurullah Shikder, described as “barrister-at-law” and Imam of Tunbridge Wells Mosque.

Earlier in this chapter I expressed surprise that none of the product providers studied seemed to offer information on the differences between English and Scottish law as they related to their work. On the *Halal Mortgages* site the entries on all four providers state that they are “not available in Scotland”. To the best of my knowledge this very serious limitation is not made clear on the information provided by the product providers themselves. May I urge researchers based in Scotland to carry out their own work on the availability of Islamic financial products there.

The Islamic Bank of Britain

In August 2004 the Islamic Bank of Britain received authorisation from the Financial Services Authority, and in September 2004 opened its first branch, in London. It subsequently opened further branches in Birmingham and Leicester, and a second one in London. It claims to be “the UK’s first stand-alone, shari’a compliant, retail bank”, which seems to ignore the previous, if short-lived, existence of Al-Barakah.

The shareholders of the IBB are banks and wealthy individuals based in the Middle East, apparently mostly in the oil states. The information provided on the bank’s website (www.islamic-bank.com) is a little sketchy on this issue. Of the nine members of the management team listed, five are Muslim and four non-Muslim names, and one of the latter appears to be Jewish, which may be an issue for some Muslim potential customers. In addition to the prominent presence of non-Muslims

on the staff, all apparently chosen for the excellence of their qualifications and experience in general finance, the IBB emphasises that its products are available to all, non-Muslim as well as Muslim. “We believe firmly that we are creating an inclusive bank that reflects a more inclusive society”. The discourse of social inclusivity is used to give ethical colour to the fact that the IBB will almost certainly have to appeal to non-Muslims as well in order to be commercially viable.

The IBB has a very ambitious remit, aiming eventually to provide all of the services normally provided by a conventional high-street bank. In addition to the four branches already in existence, it plans to open nine more by the end of 2006, and to offer postal, telephone and internet banking services (*news.bbc.co.uk* 31.03.05). IBB does not yet offer home purchase loans, but invites customers to “register their interest” for when the scheme they are developing is launched. It offers a current account on which interest is neither paid nor received, and a savings account which pays a return on the basis of *mudaraba* rather than fixed interest. A list of “target profit rates” is provided for the savings account, the word “target” presumably being there to indicate that the rate of return cannot be guaranteed, which would of course be *haram*.

The equivalent of a personal loan is offered under a *murabaha* arrangement. The word “loan” is never used, instead the arrangement is described as a “personal finance facility” that will “allow you to generate cash for the purchase of goods and services”. The detailed breakdown of how it works is as follows: customer needs £1,000; customer enters into an agreement with IBB to purchase a commodity from IBB with payment deferred for a year; IBB sells the commodity to the customer for

£1,000 plus agreed profit mark-up; customer appoints a third-party broker to sell the commodity on his behalf (back to the bank, one imagines, though this is not made clear); customer now has £1,000, the proceeds of the sale, in his account, to spend on whatsoever he wishes; customer makes monthly repayments of the higher deferred price at which he purchased the commodity from the bank. Both transactions are carried out simultaneously, to avoid the danger of “price movement”, and the customer is not present at either of them, he signs an agreement to give the IBB a limited power of attorney to conduct them for him.

This is an absolutely classic synthetic *murabaha*, as described by Vogel & Hayes (1998 p.141) and is almost identical to the *hila* described by Rodinson (1977 [1966] p.37) as having been practised since medieval times. Rodinson comments that “the trick seems a crude one”. It is disappointing to find such a venerable device being employed by a bank which claims to be at the cutting edge of innovation in Islamic finance.

The Shari’a Supervisory Committee now consists of Nizam Yaquby and Abdul Satter Abu Ghuddah, who is a scholar based in Riyadh. Muhammad Taqi Usmani used to serve on the committee but is now (21.06.05) described as having retired from it. He is thanked for his invaluable contribution to the development of the bank. I noted in an earlier section that Usmani has also recently retired from the supervisory committee of Ahli, and that this was attributed by Ahli to his wish to devote more time to academic pursuits. One wonders whether this is really the only reason for his reduction of his commitments, or if perhaps he may have had some reservations about approving the “personal finance facility” described above.

The appearance of the IBB came too close to the end of my period of work on this thesis for me to be able to provide a detailed case study of it. The most recent report on its progress (*news.bbc.co.uk* 31.03.05) was that it had lost £3.1 million in its first five months of operation. The bank blamed these on the high initial start-up costs and expected the situation to improve in the future. As the chairman, Abdul Rahman Abdul Malik, was reported in this article as saying, “the introduction of Islamic structured retail financial services into the conventional interest based Western environment continues to be a challenging process”.

Charities

Although this thesis is not concerned with Muslim charities in general, I would like to explore some aspects of their work as they relate to problems of *riba*.

First, I would like to acknowledge my debt to Muslim Aid for originally inspiring my interest in the whole subject of the Islamic financial tradition. When I first began doctoral study in autumn 2001, the website of Muslim Aid contained a very strong denunciation of *riba*, and stated that donations of interest money could only be accepted if clearly marked as such, so that they could be kept separate from other money. This was in order that this fund of tainted money could be directed solely to the relief of immediate life or death emergencies, which they had been advised by their *shari'a* consultant was the only use which could justify their accepting it. I was fascinated to discover that a charity working to relieve acute distress could have such scruples about interest money, and prompted to learn more about teachings on *riba*.

Over the last three years the Muslim Aid website has been entirely redesigned, and I can no longer (21.06.05) find any direct reference to interest money on it.

Wondering if they had relaxed their policy, I wrote to them to enquire how they now dealt with interest donations. They replied that their policy had not changed, and they had in fact now “gone further to ensure that any interest money received is clearly marked, and is banked into a *separate* account. Funds from this account are *only* used for ‘survival’ cases” (personal communication dated 17.6.04, emphasis in original).

The Muslim Hands agency has a section on its website requesting that interest money should be described as such when donated, but says ambiguously that it will “still be used to help the needy”.

Islamic Relief do not have any statement of policy on this issue in any of the printed material which I have seen, and I have been unable to find any reference to the matter on their website. I contacted the charity’s headquarters directly and was told by a representative that it “has no problem in accepting donations even if they are of bank interest” (personal communication 22.03.05). It has taken this policy decision “relying upon the fatwas of remarkable scholars such as Shaikh Yusuf al-Qaradawi and Mohammad al-Ghazali”. The mention of Qaradawi is interesting; we have noted elsewhere that he was responsible for the major *fatwa* ruling lawful the holding of interest-based loans by Muslims in Europe. The selection of liberal authorities on which to rely may be related to Islamic Relief’s strategy of modelling the charity closely on well-known aid agencies such as Oxfam, and seeking acceptance from the

wider society, in contrast to the policy of Muslim Aid, which has chosen to keep its activities relatively isolated within the Muslim community and does not generally look for wider recognition. (See Benthall and Bellion-Jourdan 2003 for a discussion of this difference in approach.) More pragmatically, it maximises the pool of money available for donations.

However, the communication cited here also said that Islamic Relief's own bank accounts are non-interest-bearing. Apparently they are held with Barclays, which provides confirmation of the claim by some correspondents to the *Salaam* site (postings 27.10.03 and 29.10.03) that this bank is willing to devise a way of preventing the payment of interest on accounts. For the charity itself to receive interest would, one imagines, be more susceptible of criticism than merely receiving donations of interest from others, which has a long history of being justified as a means of freeing the donor from the taint of a sin. My correspondent added that the charity was in the process of producing a formal policy on the subject, and believed that observing Islamic law and Islamic economics would "never be a barrier in the face of its work".

The general prevalence of interest in the British banking system raises the question of whether or not to accept interest on their own bank accounts for all Islamic charities. This is a particular dilemma for charities in a way it is not for a commercial organisation, since refusing interest in their case is likely to seem not merely eccentric but irresponsible, given the expectation that a charity will minimise its administrative expenses and maximise the resources available for its work. The Muslim community from whom they draw most of their assets will presumably

understand the situation, but there is a potential source of misunderstanding with those who regulate charities in the wider society.

The notes for guidance on compliance with the requirements of the Charity Commission, available on its website (www.charity-commission.gov.uk), state that one reason for intervention by the regulators would be that a charity's directors appear to be showing "serious financial imprudence". This form of words implies that the regulators would only be concerned if a Muslim charity were displaying reckless carelessness with its assets by investing them in a way which risked their being lost, rather than insisting on their being deposited in the highest interest bearing account available. Indeed, the fact that Muslims also have principled objections to excessively speculative forms of investment, i.e. *gharar*, may make them less rather than more likely to incur charges of imprudence. Most of the cases concerning Muslim charities available in the Commission's files appear to concern worries over inadequate accounting procedures - due to inexperience, rather than any deliberate attempts at fraud.

A representative of the Charity Commission indicated (personal communication dated 1.2.05) that its Head of Investigations could not imagine any circumstances in which the Commission would be concerned purely because a charity was managing its assets in accordance with *shari'a*. There have apparently been some cases where Muslim charities were found by the Commission to be regulating their financial affairs in a way different from what it considered usual, but where the investigators were satisfied that this was solely because the charities in question sought to comply with *shari'a*, and that this was "in furtherance of the purposes of the charities". In

other words, for a Muslim charity conformity with Islamic law is part of its essential nature and reason to exist, and so, arguably, non-compliance with *shari'a* might be seen as more of a problem, if it raised concerns that the charity was not acting in accordance with the purposes for which it was established. The Charity Commission has recently become aware (same communication) that it is necessary for it to understand “Islamic mortgages”, because in some circumstances a registered charity requires the permission of the Commission to buy or sell land. It is currently in the process of updating its guidelines on this matter to ensure that it includes adequate reference to Islamic practice.

It is noteworthy that all the major British Muslim charities accept donations by credit card. All of the printed appeals which I have seen by Islamic Relief, Muslim Aid, Muslim Hands and the Human Relief Foundation show the symbols of Visa and Mastercard on the donation form, and in the case of the last three these visual images are also prominent on the online donation sections of their websites. There is of course no way of collecting money directly online except by using bank cards, but it would have been quite possible for these charities to decide to accept only the type of card which debits the customer's current account, such as Switch and Delta, if they wished to make a clear statement of disapproval of credit cards. It is interesting that they have all chosen not to do so.

As far as I am aware there has been no *fatwa* widely circulated in Britain condemning the use of credit cards outright. The generally accepted view is that while paying interest on an outstanding balance is of course *haram*, there is no objection to holding a card and paying off the balance in full every month.

Presumably most Muslims would if challenged claim that they do always pay the balance in full and thus pay no interest. It must though be arguable that merely holding a credit card creates a moral hazard, by giving the holder the permanent temptation of carrying over a balance and thus incurring interest. It seems that taking a stand on this point is a step too far for charities whose primary concern must be to extract money from their supporters by whatever means is most convenient.

A recent but potentially very fruitful development in the work of Muslim charities is their promotion of *waqf* to British Muslims as a way of increasing the value of charitable donations. Usually translated as “recurring charity”, *waqf* has been a very important social institution in the Muslim world for centuries. The donor gives land or property as a charitable endowment, the income it generates being dedicated to some named philanthropic object. Property given as *waqf* is exempt from taxation and cannot be sold or appropriated by the government; it is, at least in strict religious theory, inalienable in perpetuity.

Islamic Relief is developing a modern form of this tradition in which British Muslims create charitable endowments in the developing world. (I am not aware that any other Muslim charity is operating a *waqf* scheme at present; probably only Islamic Relief so far has the resources to implement such an elaborate and long-term project.) The example they give in their explanation of how recurring charity works is that if a field is given as *waqf*, the crops it yields are used for charitable purposes, while the field itself remains untouched for ever. In practice, however, British Muslims are not being asked to purchase fields overseas. It is purely a form of cash donation, the money being invested and the proceeds used for such purposes as

health care, education and provision of water. The cost of one whole share in a Waqf Fund is £890, which entitles the holder to a deed of ownership. This sum can be paid in instalments or by a group of individuals clubbing together. The deed can be registered in the name of a person other than the donor, for example the donor's child, or even in the name of a deceased individual, since the virtue gained by endowing recurring charity is believed to continue in the after-life.

It is evident that this scheme is in practice no more than a form of investment, and the information about how the money is invested provided in the Waqf section of the Islamic Relief website is sketchy. It merely promises that "donations will be pooled and invested according to the principles of Islamic Shari'ah". The question of whether a return on an investment in perpetuity is not *riba* is sufficiently obvious for it to be one of the "frequently asked questions": "If you are promising an annual return, is this the same as interest?". To which the answer is: "Because we do not guarantee a return on the investment, we are not offering interest. Instead we state that we expect a very high chance of return - not a 100% chance of return."⁵ The answer to another "frequently asked question" explains that the charity avoids high-return but high-risk investments, using only those which offer relatively lower returns but are very low risk.

The paper flyer about *waqf* produced by Islamic Relief (I picked mine up at the charity's stall at the Tyneside Mela in summer 2002) is more explicit about the nature of modern "recurring sadaqa". "It is built on the principle of using revenue from assets and investments for charitable purposes". Fields are not mentioned. Significantly though, the charity has chosen to use an agricultural metaphor to

⁵ Zubaida (2003 p.110) relates that historically interest-earning *awqaf* were accepted in the Ottoman Empire.

illustrate the scheme. Under the heading “garden of kindness”, this explanatory leaflet lists the “six seeds” which can be planted by *waqf* donations (education, care of orphans, emergency relief, water supply, health and *qurbani*, i.e. the animal sacrifice of *Eid al-Adha*).

The promotion of this scheme thus combines references to the greatness of the Islamic past (the website mentions several notable institutions funded by *waqf*, including Al-Azhar university) and an invocation of a simpler, pre-urban life with very modern forms of financial investment. It is a truly innovative development. It is also an example of convergence between Islamic and non-Islamic traditions; in this case, of *waqf* with the form of charitable trust which has long been established in English law. This comparison is explicitly made on the website: “the Waqf is comparable to Western concepts of charitable trusts or endowments”. This raises the question of what distinguishes the two sufficiently to ensure that the former gains religious merit in a way which the latter does not. It seems to be no more than the status of the donor as a believing Muslim and the religious intention with which the gift is made.

GHARAR

Gambling

The term *gharar* covers a wide range of speculative activity, at one end of which is pure gambling. Games of chance are referred to in the *fiqh* literature by the specific term *maysir*.

The National Lottery

In modern Britain there is one example of *maysir* which is actually promoted by the government, namely the National Lottery. The fact that some Muslim-majority countries also have national lotteries may confuse the issue, but it is the virtually unanimous opinion of Islamic scholars at the present time that lotteries which involve purchasing a ticket in the hope of winning cash prizes are unlawful for Muslims.

It was therefore rather unfortunate that the first ever winner of the British National Lottery, in December 1994, was a Muslim man from Lancashire, Mukhtar Mohidin. No one held the correct numbers in the first week the draw took place, and so his win took place in the second week with a “roll-over” jackpot of some £18 million. In addition to the media frenzy which would have greeted any first winner of the long-awaited Lottery, Mr Mohidin found himself the target of much reproach from Muslim organisations and individuals for having taken part in an illicit gambling activity. He made an attempt to give some of the money away, but a group in his home town of Blackburn who were raising money to build a mosque refused to accept such a tainted donation. Kalim Siddiqui of the so-called Muslim Parliament offered the opinion that the very worst thing to do would be to give the money back to Camelot (the

organisation which runs the Lottery), since this would merely increase the funds they had available for their reprehensible activities.

It was reported that Islamic Relief had also refused to accept a donation, but this was denied by the charity itself. Islamic Relief then issued a clarifying statement which took the delicately poised position that they would be willing to accept a donation from Mr Mohidin if one were offered but did not feel it would be appropriate to ask for one. The president of the Blackburn Muslim Welfare Society perhaps meant to convey the same meaning in a press interview in which he said pointedly that local hospitals and other deserving causes were in great need of money, and people would respect the winner more if he gave the money away. (All of the references above are taken from *BMMS* January 1995, which summarised press reports.)

Four months later a tenant of Mr Mohidin's, Ismail Lorgat, announced that he intended to sue him for a share of his winnings, arguing that he had told his landlord to use the change from payment for an electricity bill to buy Lottery tickets, and that Mr Mohidin had promised to do so and share any winnings with him. Mr Lorgat added, somewhat puzzlingly, that he had taken religious advice on the matter and was aware that he could not keep any of the money but would have to give it all to good causes (staying silent on the issue of whether it might be permissible to deduct the legal expenses incurred in claiming his share of the money before giving it away). Specifically, he explained, "If the money is given to English people [i.e. non-Muslims, presumably] I am not committing a major sin". (*BMMS* May 1995, quoting *Sunday Times* 16.04.95) This threat of legal action is sadly typical of the experience of many Lottery winners but is notable in this case for being larded with religious references. There is no recorded reference to the matter having proceeded any further.

There were however further developments in Mr Mohidin's attempts to donate to his local mosque. More than two years after his win it was reported that the Masjid al-Mumineen in Blackburn had accepted a gift of £300,000 from him, apparently in some secrecy since it only came to public attention because of the circulation of an anonymous leaflet denouncing the mosque's acceptance of the proceeds of gambling. On this occasion an official of the mosque was quoted as saying, with refreshing directness: "Yes, we have had some Lottery cash – who doesn't want Lottery cash these days. You could argue all day about whether accepting this is against our religion." (*BMMS* May 1997, quoting *Blackburn Lancashire Evening Telegraph* 28.05.97.)

The tone set by the response to this first jackpot win has continued to dominate Muslim relations with the Lottery. Many Muslim organisations have accepted grants from the Lottery Charities Board. Some representative examples include: a centre for elderly Bangladeshis in Hyde, Manchester; a project for Asian youth in Middlesbrough; a group working to combat isolation and depression among Muslim women in Edinburgh (*BMMS* November 1995, March 1996, December 2001). The conflict between a desperate need for money on the part of many Muslim organisations and a strong sense of the unlawfulness of accepting Lottery funds has generated some very finely nuanced readings of the jurisprudential tradition on gambling.

A striking example of this took the view that the evils arising from the poverty and lack of resources in Muslim communities were themselves forms of moral hazard which had to be set against the evil of encouraging gambling. Khalida Khan of the An-Nisa [Women's] Society said: "It's a case of weighing the risk of giving a degree of legitimacy to the lottery in accepting benefactions, against the risk of the community

sliding further into the abyss of deprivation and degeneracy through want of resources” (*Q-News* 02.02.96).

It seems to be generally agreed that the proceeds of gambling cannot in any circumstances be used for the building or maintenance of mosques or the printing of copies of the Holy Quran. This was, for example, the view of Shaykh Darsh, then president of the UK Shari’a Council. He added that the building of community or cultural centres “separate from mosques” with Lottery funding was, however, permissible (*Q-News* 09.02.96). It is evident that the definition of the separateness of an Islamic cultural centre from a mosque offers much scope for creativity.

Shaykh Darsh issued this ruling in response to a controversy which arose in January 1996 when Prince Charles wrote an article in which he linked two of his enthusiasms, for architecture and for the promotion of inter-faith relations, by suggesting that the Millennium Fund, a sub-division of the Lottery which allocated funding for projects to mark the year 2000, should finance some high quality religious buildings for non-Christian faiths such as Islam and Hinduism. There were, he lamented, so few projects planned which emphasised the spiritual importance of the millennium. It is apparent that the Prince had not checked the Islamic position on gambling before putting forward this suggestion, and he was probably taken aback when what was no doubt a well-intentioned gesture aroused considerable controversy. Several Muslim commentators simply dismissed as outrageous the suggestion of building mosques with Lottery money. Zaki Badawi, then chairman of the Imams and Mosques Council of Great Britain, was characteristically conciliatory in praising the Prince’s work in building bridges between communities, whilst not actually saying that the suggestion was a good one. Sher Azam of the Bradford Council of Mosques commented that Muslims were

very grateful to Prince Charles for showing an interest in their community and for drawing attention to the need for a spiritual dimension to the millennium celebrations, but “we cannot take money from gambling any more than we can from crime” (*BMMS* February 1996; Azam quoted from *Guardian* 26.01.96).

This blunt equation of the National Lottery with crime illustrates the gulf which exists between the view of it promoted by the government, and indeed accepted by the majority of the British population, and a certain religious perception of it, shared by some Christian groups as well as Muslims. According to the former, it is a harmless activity in which everyone can have some fun while generating huge amounts of money for popular causes. In the latter, it is a cynical means of taking money from people by persuading them that they have a reasonable chance of gaining a fortune in exchange, then allowing the failure to do so to reduce them to despair and an addictive, impoverishing repetition of the attempt to win. Some Christian denominations which take a strong stand against gambling (for example the Methodists and the Salvation Army) have also refused to accept Lottery funds. In their case, their objections merely mark them out as having ethical standards different from, and arguably higher than, those of the majority society, and this will usually elicit respect rather than condemnation. In the case of Muslims, however, any kind of reluctance to share in an activity popular with and regarded as harmless by the majority of society is liable to be perceived as a refusal to “integrate”.

The dominant political discourse in Britain values social diversity yet promotes equal opportunity for all. In other words, individuals, and groups defined in either racial or cultural terms, may have different needs, yet all are equally entitled to have those needs met. Acting in accordance with this policy, officials from the Heritage Lottery Fund

made efforts to encourage more groups from “ethnic minorities” to apply for grants. They expressed concern that such groups did not seem to be getting their fair share of funding, and held meetings to get this message across (*BMMS* December 2001). They were perhaps not aware that a few years earlier the Racial Equality Officer in Keighley had faced calls for his resignation from local Muslims after the Commission for Racial Equality had urged “ethnic minority” groups to apply for Lottery funding, as part of a controversy over whether or not a community centre based in the premises of the Keighley Muslim Association should accept a grant of £375,000 from the Lottery Charities Board (*BMMS* January 1996).

In both cases these well-meaning attempts to distribute resources to minorities conceptualised in “ethnic” terms aroused protest from Muslims who saw the issue as being one of religious principle, not racial definition. Both cases also provoked heated debate and disagreement among Muslims themselves, since many were only too happy to take the money. It is also conceivable that some non-Muslims might protest that people who object to buying Lottery tickets should not benefit from the grants made out of the proceeds. This illustrates the problems of allocating resources on the basis of a certain definition of diversity which does not include the freedom to denounce the way those resources are produced.

Other Forms of Lottery

There are numerous smaller scale activities in Britain today which could be construed as lotteries. The “fatwa bank” of www.islamonline.net contains rulings on several activities which fall on the borderline of gambling. For example, one questioner asked whether the vouchers entitling holders to a free meal item which some restaurants distribute at random to customers as a promotional device were *haram*. The ruling in

this case was that they are acceptable because they do not require the customer to purchase a ticket and do not therefore constitute a lottery.

Another questioner was keen to take part in a “fantasy football” game, where players pick an imaginary team of football players and win points according to the performance of the players in real life, but was worried that this might qualify as gambling. The ruling in this case turned on the issue of whether the entrance fees charged to players were to cover the cost of the cup awarded to the winner or merely to cover administration. If the former, then this would take the game into an unacceptable category. This case is of some interest because it concerns an activity so popular and widespread among young men in this country, and illustrates the amount of thought and attention to detail which a practising Muslim needs to devote to the pursuit of an Islamically acceptable life in modern Britain.

There are an increasing number of game shows on television in which the ratio of luck to skill needed to win is such that they would appear to constitute a form of gambling. This may exclude some conscientious Muslims from participation in shows with some potential to contribute to the “banalisation” of the representation of Muslims in the popular media, that is, their appearance in everyday settings in which the fact of their being Muslim is incidental. An example of Muslims being directly targeted by programme makers was found on the Muslim Council of Britain website (www.mcb.org.uk 02.08.04), when a TV production company called 12 Yard Productions posted on it an advertisement aiming to recruit contestants for a new show called *Beg Borrow Steal*, a title which looked likely to sound alarm bells with pious Muslims.

Ansari (2004 p. 316) states that some Muslim parents have found it difficult to support their children's schools' use of "fund-raising activities based on gambling". When expressed in such bald terms, even some non-Muslim parents might balk at the prospect evoked, but I would imagine that he is referring mostly to the very common use of raffles as a money-spinning device by schools and many voluntary associations. Raffles are so deeply rooted in British culture, and so strongly associated with community spirit and local philanthropy, that objecting to them may seem to some non-Muslims even more alien than wanting one's daughter to wear a headscarf.

Mecca Bingo

We cannot leave the subject of gambling without considering Mecca Bingo. This is a chain of bingo clubs founded in 1961 and acquired by the Rank organisation in the early 1990s. It has, according to Rank's website, about a hundred and twenty clubs in the UK, and these are mostly located in areas which were traditionally home to the industrial working classes who originally provided most of their customers. The fact that immigrants were also driven by the need for cheap housing to settle in these areas has led to a situation where Muslim communities are very likely to have a branch of Mecca Bingo in their vicinity.

It is safe to say that no company launching a chain of gambling clubs at the present time would decide to call it Mecca, but in 1961, when large-scale South Asian immigration to the UK was just beginning, the founders of the clubs would probably not have considered possible Muslim offence to be something they needed to take into account. The choice of name was presumably influenced by the idiomatic English habit of referring to a place which is a particularly well-known and attractive location of a certain activity as "the Mecca" of the activity in question. The fact that this idiom

became so established reveals something about the historical understanding of Islam in Britain, but this interesting point is outside the scope of this study.

The clubs are generally quite large buildings and they all display an eye-catching sign with the word “Mecca” on multi-coloured and brightly illuminated neon tiles. They are thus a very prominent and even intrusive presence. The Muslims of Oldham must do their shopping almost literally in the shadow of the club in the town centre. In Leeds, a new branch of Mecca is being opened adjacent to the city’s main bus station. While in Bradford (the city, remember, where a book believed to insult Islam was burned), a branch of Mecca is located in the heart of the city on the ground floor of a building whose other floors form a student hall of residence, raising the prospect of Muslim students having actually to live above this offensive entity.

It is true that the name Mecca is sometimes used by Muslims themselves to name business enterprises. For example, there is a company in the Cheetham Hill district of Manchester, an area of Muslim residential concentration, called Mecca Property Management Services. This though is considerably different from a gambling organisation run by non-Muslims being named after the holiest city of Islam. This would appear to be self-evidently offensive to Muslims, and when to this is added the fact that these clubs have a well-established place in the culture of the white working class and are often situated in areas where there is friction between white and immigrant populations, one would expect them to be a focus for Muslim protest and communal unrest. Yet I have been unable to find any record of Mecca Bingo having been specifically targeted during the violent disturbances in Bradford and Oldham during the summer of 2001, and the clubs mentioned above appear to be unmolested.

The only example recorded of a campaign against Mecca Bingo took place in Luton in December 1997. Protest was triggered by a decision by the Rank organisation to change the name of the club from “Top Rank” to “Mecca” as part of their policy of creating a unified brand identity for all their bingo clubs. The Luton Islamic Society made vigorous representations that the Mecca name caused “continuous hurt and pain” to local Muslims, especially since there were four mosques within walking distance of the club. During the campaign the illuminated “Mecca” name sign and the front door of the club were both damaged, and police strongly suspected local Muslim youths of being responsible, although this was never conclusively proved. In the end, Rank did agree to leave the name as it was before (*Muslim News* 30.1.98).

This is exactly the kind of action we might expect to see at the present time, when some sections of the media have accustomed us to thinking of Muslims as perpetually ready to turn to violent protest when their delicate religious sensibilities are offended. So why did the Luton protest not spread to the rest of the country, and why is protest against these clubs so muted at the present time? Perhaps it is because Muslim communities elsewhere feel too insecure to embark on a campaign which would inevitably antagonise the white working class and attract a great deal of media attention. I have no clear answer to give. I merely offer this negative finding to demonstrate that triggers to protest claiming a basis in religious offence are not as obvious or predictable as some would have us believe.

Insurance

Insurance has traditionally been regarded as problematic by Islamic scholars because “it contains the elements of Gharar, Maisir and Riba” (www.islamicawakening.com article

#207). The element of *gharar* arises from the intrinsically uncertain nature of the events insured against. Some commentators feel that devices to prevent financial loss from unpredictable events constitute an unacceptable attempt to avoid the risk which makes business profits legitimate. Hayes (Vogel & Hayes p.154) argues that the general use of insurance by financiers to protect against the risk of loss of the goods they are purchasing through a *murabaha* transaction is in danger of eroding the justification for the profit mark-up, which is that the financier is bearing risks through the temporary ownership of the goods, and making *murabaha* indistinguishable from non-Islamic forms of risk-free profit on a loan.

There is a common view that the retention of premiums by the insurer in the event that no claim is made by the insured is a form of illegitimate profit, effectively a kind of *riba*, because the insurer's capital has increased without any effort on his part. Since, however, the insurer cannot be certain that he will not need to pay out on a policy, his profits fall more clearly within the scope of *gharar*. The attribution of an element of *maysir* to the insurance contract in the quotation above is rather extreme, justified only because the difference between speculation and gambling is merely quantitative rather than qualitative.

Life insurance has traditionally fallen under particular suspicion because of the rather distasteful nature of the business of trying to calculate when somebody is likely to die. Even in advanced economies many people feel an instinctive aversion to the notion of gambling on matters of life or death (the major bookmakers in Britain will not accept bets on a person's death), and this feeling is probably stronger in the simpler societies from which most of the first generation of British Muslims came, in which calculations of life expectancy may be seen as trying to anticipate the will of God.

Despite these traditional scruples, the majority of British Muslims have gone ahead and purchased insurance products, because managing without them in the modern world is just too difficult and worrying. In the past this has generally been justified by reference to *darura*, over-riding necessity, or to the fact of Britain's being *dar al-harb*. The fact that there is a legal requirement in Britain to have at least third-party insurance on one's car constitutes a strong justification for invoking *darura*. Car ownership indeed presents a particular problem for conscientious Muslims, as it necessitates both insurance and, usually, a bank loan for purchase of the vehicle. One particularly committed Muslim was reported (*Observer* 18.6.00) to have found an ingenious solution: he replaced his car as soon as the dealer's offer of two years free insurance had expired, buying a new one with a similar offer in place. This did not prevent his possessing an insurance policy, but at least he had not contributed financially to the insurance company. The case of motor insurance is a good example of how increasing affluence is creating new moral dilemmas.

In the last few years attempts have been made to produce Islamically acceptable forms of insurance. Insurance is thus showing the same pattern as house purchase loans – an initial rejection by the first generation of immigrants, followed by an acceptance of them as inevitable in the new country, which has in turn been succeeded by a desire to create new forms which can satisfy both the needs of life in Britain and Islamic teaching. The development of insurance products is though lagging some way behind that of house purchase loans.

A letter from me to the Association of British Insurers explaining my research project and enquiring whether they knew of any of their members taking an interest in the

development of Islamic insurance produced by way of response a one line email:

“Unfortunately, this is not a subject we are currently actively considering” (personal communication 22.03.04). A similar letter to the Life Insurance Association produced no reply at all. The contrast with the large amount of material sent to me by the Council of Mortgage Lenders in response to an enquiry about Islamic house purchase is instructive. It appears that on the whole the British insurance industry does not yet have a sense that the Islamic market might be worth targeting.

Unsurprisingly, it is HSBC bank which is once again the furthest advanced with plans to introduce Islamic insurance in Britain. It is already involved in the field in South East Asia through its Singapore based subsidiary, Keppel Insurance. The transition to marketing similar products in the UK would therefore not be very great. At one time HSBC announced plans to launch Islamic insurance in the UK by the end of 2003 (*Financial Times* 3.12.03), but at the time of writing (late June 2005) I am not aware of its having done so.

The HSBC Amanah Finance booklet does not mention the subject of life insurance at all. It does though appear on their website in the “frequently asked questions” section (www.amanahfinance.hsbc.com/amanah/hsbc.af.nsf/Pages/UKFAQHomeFinance). The question is put in the form: “Do I need to have Life Insurance? Is there an Islamic alternative?”. The answer is unequivocal: “It is not mandatory to take life insurance and our current insurance products are not Shariah compliant”. This is followed by the vaguely worded advice: “It is strongly recommended that you assess your own personal circumstances”, a process with which the bank offers to help by providing a personal financial review. This formulation appears to mean nothing except that the bank would really much prefer their customers to take out life insurance, but recognises that in this

instance it cannot force them to. The answer to this question then continues with a reference to the fact that the bank is developing *takaful* products (*shari'a* compliant insurance) and that information about them will be available from Amanah branches “in the future”.

One of the questions in the “your questions answered” section of the Amanah customer information booklet asks whether buildings insurance is provided. The answer to this is that the bank will arrange buildings insurance in its name because the bank, under an *ijara* scheme, is the owner of the property. It appears that this is conventional insurance, and that the fact of the bank’s legal ownership of the building insured conveniently enables it, as it were, to take the sin on itself and remove it from the customer.

Ultimately of course it is the customer who is paying for the premiums, as the cost is covered by their monthly payments, and this degree of separation may not satisfy some Muslims with serious objections to insurance.

Providers of Islamic house purchase loans will be driven into providing Islamically acceptable forms of insurance in order to protect their own position. The Council of Mortgage Lenders raised this issue in their paper (2001 p.16) on Islamic “mortgages” but it appears that at that time they did not arrive at any conclusions about how to resolve the problem. The paper states: “It should also be noted that Muslims will not wish to buy conventional mortgage support products such as sickness and unemployment protection and life assurance which are also considered contrary to their beliefs”. This is almost certainly too sweeping a statement, making no allowance for the diversity of scholarly opinion on the subject. It is remarkable that the members of the Council were prepared to press ahead with the introduction of Islamic home loans before putting in place a form of *shari'a* compliant life assurance. By renouncing their

usual insistence on the customer taking out insurance to ensure repayment of the loan in the event of their death, they are taking a considerable risk. It is possible that the youthful character of the target market persuaded them that the risk of significant losses through death was small, but unemployment can strike anyone. One would expect that lending criteria in these circumstances would be conservative.

In November 2003 Norton Rose, a London law firm with a special interest in Muslim clients, produced a briefing paper on the subject of Islamic insurance which took an optimistic view of the potential market for such products. “Worldwide *Takaful* premiums represent less than 0.1% of total worldwide premiums, even though a quarter of the world’s countries are Islamic. Consequently, the potential for growth is enormous.” (2003 p.2). Significantly, the writers speculated that *takaful* “could also be attractive to non-Muslims for its ‘ethical’ investment policy” (ibid. p.5).

The essential difference between *takaful* (which means “solidarity”) and conventional insurance is that the former is set up on a basis of mutuality, with profit-sharing among all members. If the insured person or business does not need to claim on their policy, their premiums are not a pure loss to them, because they will receive a share in the profits of the organisation. Usually the managing agents will receive a fee or salary which is deducted from the profits, but will not receive a share of the subsequent profit distribution, because they are conceived of as employees of the members rather than being members themselves. It is also, however, possible to set up a *takaful* organisation without any salaried agent, all the work being done by members for no remuneration other than a share in the profits. This latter model though appears impractical for a large commercial operation.

The funds of the organisation must naturally be invested in an Islamically acceptable manner, that is under one of the schemes we have already described such as *mudarabah*, *musharakah* or *ijara*. This requirement presents the biggest obstacle to the development of *takaful*, because the opportunities for such investment do not yet exist on a large enough scale. This explains why Islamic insurance has been developed to a greater degree in countries such as Malaysia where Islamic financial institutions generally are much more common. Norton Rose comment that this may mean that some providers of Islamic insurance products “have some difficulty in technically meeting their solvency margin” (ibid. p.4). This seems to be essentially the same problem as that posed by the capital adequacy regulations for providers of *ijara* based house purchase loans. In the insurance industry there is the additional problem of needing to spread risk by passing some of it on to third parties in the form of “re-insurance”. Norton Rose estimate that at present around half of the re-insurance passed on by *takaful* operators is undertaken by conventional insurers (ibid. p.5). This may render the products unacceptable to some Muslims who would prefer a much greater separation from conventional insurance. (Incidentally, the appearance of the word “re-takaful” to refer to Islamically acceptable re-insurance is a striking example of the emergence of what has been called “Islamic English”.)

It is evident that the need for greater investment opportunities to enable other financial products to succeed creates an internal imperative for growth in the Islamic financial world. It is doubtful whether small operations will be able to succeed for long in any aspect of Islamic finance, as they will be dependent on either larger Islamic companies or on conventional finance providers, and will surely prefer the former. Smaller companies who cannot either invest or lay off risk on a large scale will inevitably have

to charge more for their products, and, as with house purchase loans, idealism cannot indefinitely sustain a willingness to pay higher prices.

Pensions

The subject of pensions is one of considerable and increasing interest. It is a complex field where several matters that are problematic in the Islamic financial tradition come together. First, pension schemes usually contain an element of life insurance, as they normally include a provision for payment to be made to dependents or heirs if the pension holder dies before retirement age. They therefore fall under all the moral uncertainties provoked by life insurance, discussed above. These reservations about what is perceived as gambling on how long one will live also apply to the purchase of annuities. Secondly, pension scheme managers generate the funds to pay pensions by investing in the stock market, and the contributors have no control over how they do this. It is almost certain that some of the investments will be *haram*, or at the very least that the contributors have no way of knowing whether they are *haram* or not, which is for practical purposes nearly as bad.

The regulations prohibiting discrimination against employees on the grounds of religion, which came into force on 2nd December 2003, could potentially have a large impact on this situation. These are regulations made under the provisions of the European Communities Act to implement directives of the Council of the European Union. The principal Regulations “make it unlawful to discriminate on grounds of religion or belief in employment and vocational training” (Department of Trade and Industry 2003 p.3) and an Amendment “makes it unlawful for the trustees or managers of an occupational pension scheme, when carrying out their functions, to harass or discriminate against a member or prospective member of the scheme” (ibid. p.3). The

implication of this legislation for Muslims is that it will be illegal not to provide Muslim employees with an alternative to a pension scheme which they find unacceptable on religious grounds.

This was quickly recognised by the *Muslim News*, which published an article (30.1.04) the following month summarising the provisions of the regulations and presenting them in a very positive light. It explained that, in Islam, “receiving or paying interest is not allowed and strictly speaking, involvement in the stock market is not allowed because of the element of ‘risk’”, but then covered itself against any reader disagreement by adding “although some Muslims would not take this view”. This confusion about whether and why the stock market is forbidden to Muslims (“risk” is not an accurate interpretation of *gharar*) is typical of much popular Muslim discussion of Islamic financial matters. Nevertheless, the article insisted that Muslim members of pension schemes needed to be given the option of “not investing and leaving contributions in an account without interest” and also of “some kind of ‘Ethical Fund’”. The former suggestion seems to display a basic lack of understanding of how pension schemes work. The member choosing to leave contributions in an interest-free account would not be able to support themselves in retirement, and this would no doubt soon be recognised by those concerned. The second option, the creation of “ethical” pension funds, is likely to be the way chosen by scheme managers to satisfy the new legal requirements. This will offer scope for the convergence of Muslim and non-Muslim demands for more transparency and accountability in the investment of pension funds, but it is questionable how far a scheme designed to satisfy “ethical” criteria not specific to any particular religion can fulfil Islamic requirements. I consider this issue in more detail in the *Analysis* chapter.

Even this positive article admitted that the new regulations “could potentially become an administrative nightmare”, and reaction to them in non-Muslim society is likely to focus on this aspect. There is a real danger that the requirement to provide Islamically acceptable pension arrangements could be perceived to be so burdensome that employers will become reluctant to employ Muslims.

Yet this very reluctance on the part of non-Muslim employers and scheme providers creates an opportunity for Muslim financial service providers. Faced with a choice between prosecution and having to provide forms of pension investment which comply with a religious tradition of which they have no understanding, the harassed employer would be likely to turn thankfully to a company which could provide an “off the shelf” Islamic pension package, were one available. This will create a niche market which could potentially be as large as or larger than that for Islamic house purchase, since almost everybody wants to ensure their financial security in retirement. The demographic profile of British Muslims, that is, the fact that the number of young adults among them is significantly greater than that in the general population, means that the size of this niche market is larger than would be suggested by the bare figure of Muslims being only 3% of the population.

The development of an Islamic pension scheme will follow naturally from the increasing availability of Islamic equity funds. All of the companies which I have studied mention *shari’a* compliant pensions in their publicity material as an area which they are anxious to enter, but, so far as I am aware, only Fyshe Crestar has actually done so.

The Finance Bill of 2004, which will come into effect as an Act in April 2006, has taken account of Muslim reservations about purchase of annuities by providing for “alternatively secured” forms of income in retirement. The explanatory notes on this Bill (Board of Inland Revenue 2004 p. 41) do not specifically mention Muslims, but refer only to “groups of people who have principled objections to the pooling of risk which is a feature of lifetime annuities”. It is though generally understood within the pensions industry that it is Muslims who are primarily meant by this (Jonathan Moody of the Association of Pensions Lawyers, personal communication, 8.7.05). The statement that it is the “pooling of risk” which makes annuities objectionable is a little odd; this form of words is a summary of the essential nature of insurance rather than an explanation of why some Muslims find life insurance unacceptable. We have seen that pooling risk for mutual benefit is exactly what a *takaful* scheme does, and that it is in principle regarded as a praiseworthy thing to do. Objections to life insurance and to annuities are based rather on the apparent impiety of hazarding money on a guess about how long someone will live, and of a company making a profit from this.

These “alternatively secured pensions” will pay income derived from underlying assets without requiring the beneficiary to buy an annuity which guarantees an income for life no matter how long that may be. The disadvantage is that the maximum alternatively secured income will only be 70% of a comparable annuity (op.cit. p.41). Once again then, the Islamic variant of the product is more expensive.

The Finance Act of April 2006 will also introduce a major change in the regulations governing pension investments, which could make it much easier to create pension schemes which are acceptable to observant Muslims. From that date pension funds will no longer be restricted to stock market investments or insurance funds but may invest in

a much greater range of assets, including residential property and high value moveable goods (*Daily Telegraph* 28.05.05). This will enable funds to be created which avoid entirely forms of investment tainted by *gharar*. It will also create synergy with the burgeoning Islamic house purchase market by enabling the incorporation of residential property into a retirement investment portfolio.

1st Ethical

The company

1st Ethical is an Islamic financial advice and brokerage firm based in Bolton, Greater Manchester. It is one of the most eye-catching developments in Islamic finance in Britain at the present time. I first became aware of it through some references to it posted on the *Salaam* website (29.06.03 and 03.07.03) in response to enquiries about halal investments. Subsequent internet searches revealed a large amount of positive media coverage of this company. For example, the *Financial Times* (14.07.03) ran a large feature article under the headline “a farewell to usury”, which referred to the “entrepreneurial drive” of its founder, Sufyan Ismail, but also described him as “something of a social visionary”. It cited admiringly the company’s first year commission income of £500,000, predicted to triple in its second year, and said that its problem was the opposite of that facing most financial advisers, who are obliged to pursue reluctant customers for sales, in that it had plenty of interest from the public but was very limited in the range of products it could offer. The photograph illustrating this article showed Mr Ismail wearing the kind of bushy beard which usually signals “violent extremist” to the newspaper-reading public, but in this case accompanied by a smart suit and a beaming smile. Perhaps the subliminal message sent by such a picture is itself a contribution to improving the situation of British Muslims.

1st Ethical has won many awards. Most notably it was a finalist in the Shell Livewire Young Entrepreneur of the Year competition in June 2003 and was recognised as the fastest growing company among the finalists. Also, Sufyan Ismail himself was recognised as “North West Young Entrepreneur of the Year” under the Shell scheme.

The Livewire competition is a scheme run by the Shell oil company to recognise and encourage young people between the ages of 18 and 30 who have started their own business. It was to the recent finalists in this competition that the *Daily Telegraph* (21.4.05) turned when it wished to canvass the opinions of the “rising stars of the young generation of entrepreneurs”. In its own publicity material 1st Ethical has tended to present this award as recognising them as “the UK’s fastest growing company” without qualification (see for example its current website and the issue of its newsletter for spring/summer 2004), which is typical of its assertive promotional style.

In the same month as it achieved this national recognition, 1st Ethical was one of six local businesses presented with an award by the Mayor of Bolton for their contribution to the town’s economy (*Bolton Evening News* 26.6.03). In 2004 it won the Ethnic Business section of the North Manchester Business Awards (*Bolton Evening News* 15.6.04) and was named New Business of the Year by the North West Institute of Chartered Accountants (*Bolton Evening News* 13.12.04).

The latest news is that 1st Ethical has been nominated in the category of “Entrepreneur of the Future” for the CBI Growing Business Awards. The most recent issue of the company’s newsletter (winter 2004/spring 2005) comments that this nomination has “shattered the glass ceiling” for Muslim businesses.

To summarise: 1st Ethical has been feted by mainstream business organisations, by those concerned with promoting ethnic minority businesses and by the agencies seeking to regenerate the economy of Lancashire. It must be doing something right. The question is how far these awards honour mere inventiveness and energy, and how far those qualities have been translated into hard financial returns.

On the figures quoted in the latest newsletter (winter 2004/spring 2005), the company has indeed demonstrated a solid ability to generate hard cash. It says that the turnover for its third year was a 300% increase on its second year, which had already showed a 200% increase on the first year, and that fee and commission income has now exceeded £2 million per annum. It is of course inadvisable to take a company's own word for its performance, but such figures, which could easily be checked by regulatory authorities, cannot be very far removed from reality. The firm has now entered the UK Top 100 financial advisory firms.

Warde (2000 p.7) points out that Islamic financial firms typically enjoy spectacular early growth due to the existence of pent-up demand, and that the rate of growth then slows. The real test for an Islamic company is whether it can continue to attract new customers, rather than relying on those who were already actively seeking such a product. It is too early to say whether 1st Ethical will successfully rise to this challenge. Indeed, it is too early to say this about any Islamic financial operation in Britain. The field is very new and changing very fast. In a few years' time another researcher will need to revisit these companies and trace their development subsequent to this thesis.

The regional element of its story illustrates an aspect of the situation of British Muslims which is sometimes neglected. In the 2001 census, the town of Bolton had a total population of 261,037 of whom 7.1% were Muslim. This is a significant percentage but not as high as that in some other areas of Greater Manchester. For example, in the town of Oldham, which has a similar overall population, 11.1% of its people are Muslims, but sadly the Muslims of Oldham are still associated in the popular mind more with rioting than with financial innovation. This comparison is of course crude, but serves to make the point that the appearance of a successful Islamic product provider requires more than simply a large number of Muslims locally.

The original offices of 1st Ethical were in the Bolton Business Centre, a small block of offices occupied by several small companies sharing a common reception area. This centre was set up specifically to help start-up companies by Bolton Enterprise Services. The physical base of the company was not in any sense a uniquely Muslim space. More recently, the success of 1st Ethical has enabled it to move to larger premises.

When I called in to the office to request some literature I was initially surprised to be received by a white woman, not wearing any kind of *hijab*, but was impressed by her evident enthusiasm for the company. I subsequently discovered that she is the personal assistant to the directors. Another personal assistant with a non-Muslim name is listed on the website. This may seem a small detail, but in the broader context of the Islamic financial world it is significant that the founder-directors of 1st Ethical are happy to have non-Muslim women as assistants. At a time when women's clothing has been made to bear an inordinate symbolic burden in British Muslim politics, this signifies a conscious decision not to go down the route of ostentatious displays of Islamic motifs.

This is also true of the company's information material, both online and printed, which is entirely free of the pictures of ancient Islamic artefacts and decorative oddments of Arabic calligraphy which are a prominent feature of the majority of material in this area. It does not even include any quotations from the Quran. In fact, at first glance it is not obvious from the company's website that it is an Islamic company at all.

The home page of the website, in the manner of advertisements for financial products everywhere, features a photograph of a smiling family group. In this one, the mother is wearing the curious combination of a headscarf and a short-sleeved blouse. The scarf acts to signify that this is an Islamic company. The combination with the exposed forearm, which, although common enough in, for example, Indonesia, is unusual in the state of heightened consciousness which exists in Britain, could almost be said to symbolise the company's avoidance of an Islamic hard line. Intriguingly, the version of this photo which features on the front cover of the company's booklet on Islamic estate planning has been cropped at the level of the models' elbows, so that it is not apparent that the woman is wearing short sleeves.

The importance of the drive to regional economic regeneration is sometimes overlooked by those perhaps too ready to see Muslims as marginalised. The agencies charged with reviving the economic fortunes of post-industrial areas are eager to support any business at all that seems to have a good chance of success. Only the most determined Islamophobe among their staff could fail to be delighted by the remarkably rapid growth of 1st Ethical and the media coverage it has received in consequence – coverage which, of course, all refers to Bolton and thus incidentally suggests that the town is a dynamic business centre.

An article about the encouraging number of new businesses which had been set up in Bolton in recent years (*Bolton Evening News* 11.03.04), which mentioned 1st Ethical as one of the most successful, quoted the business support manager of the Bolton Investment Centre as saying, “it is great to see people in Bolton keeping alive our history of innovation by grasping the opportunities that new technology has to offer”. From this local perspective, Islamic financial product developers are not culturally alien at all, they are in the fine tradition of innovation and enterprise which is the heritage of all the residents of Greater Manchester, cradle of the Industrial Revolution.

1st Ethical’s own newsletter (spring/summer 2004) says cheerfully that its “local paper, the Bolton Evening News, continues to document 1st Ethical’s progression every step of the way”. This is broadly true; a search of the paper’s archives showed thirteen articles mentioning the company and all of the awards which the company has received have been warmly reported by the paper.

The *Financial Times* feature article (14.07.03) on the company, mentioned above, claims that 1st Ethical started trading on 11 September 2001. This is curious, as I have never seen this date quoted in any other accounts of the company’s history, and it is such a gift to a journalist that it surely would have been if other reporters had been given any encouragement to believe it. An article in the *Guardian* (18.10.03) says that “Sufyan founded the business in November 2001”, which accords with the date of 7 November 2001 given on the company’s own website. I am not in a position to comment on whether Mr Ismail himself cited the coincidence of a “9/11” start date to the *Financial Times*. Given that the company’s own material gives the November date, it seems more likely that the F.T. journalist misunderstood or wilfully misinterpreted some reference to founding the company in “the autumn of 2001”. Whatever the truth of

the matter, the prominence given to the 11 September date in this article speaks volumes about the preoccupations of journalists, even at such a sober newspaper as the *Financial Times*.

The people

The CVs of the “team” at 1st Ethical make interesting reading. Without exception, the financial advisers have strong backgrounds in conventional banking, accountancy and information technology. Between them they have worked for, among other places, Barclays, Price Waterhouse Cooper, the IT department of Dixons stores and “the Californian software giant Ariba Inc.”. Before taking up these posts they obtained degrees in relevant subjects from good universities. Several studied locally at the University of Manchester. Sufyan Ismail himself graduated from the University of Manchester in Economics and Corporate Finance in 1998. He worked for the leading accountancy firm Deloitte Touche before qualifying as an independent financial adviser in the summer of 2001. He thus appears to have set up in business for himself almost as soon as he was qualified to do so. His entry on the staff list proudly claims that he is “one of an elite few advisers in the UK writing [sic] in excess of £1 million in fee and commission income per annum”.

On the evidence of his curriculum vitae, Sufyan Ismail is a man of considerable ability, ambition and entrepreneurial flair who could have had a very successful career in the conventional financial world, so his decision to channel these qualities into a purely Islamic business is significant. The standard interpretation of the growth of Islamic financial products as being due to an increased desire by British Muslims to assert their identity (which Mr Ismail himself is happy to say in interviews) cannot explain such a

calculated career choice. Whilst not in any way questioning the sincerity of Mr Ismail's religious convictions, I would say that someone like him is unlikely to have chosen to concentrate on the Islamic sector if he did not feel that it offered a real opportunity to create a successful business. It is too early to predict what the long-term future of 1st Ethical may be, but so far it has at the very least brought its founder far more publicity and respectful media attention than he could ever have received as an employee of a large accountancy firm. In short, he has not had to make a choice between career success and observance of Islam, he has made a career out of promoting observance of Islam.

Religious Expertise

On the home page of its website 1st Ethical summarises its activities by describing itself as “a regulated and authorised firm of independent financial advisers and tax planners specialising in the mitigation of tax through the use of Inland Revenue sanctioned, shariah compliant Trusts”. This affirmation of compliance with both the United Kingdom tax authorities and the law of God expresses the nature of contemporary developments in Islamic finance in Britain as well as anything I have seen. The *shari'a* has been incorporated into the regulatory framework within which this team of trained professionals operates.

This is reflected in the employment of an Islamic scholar whose CV stands out from those of his colleagues. The *shari'a* consultant, Moulana Fazulrahman Hassan, is a graduate of the Islamic Institute of Higher Education in Bury. “Moulana” (Urdu for “our master”) is normally a title indicating a high level of knowledge of the religious sciences, but both his “profile” on the company website and an article in the local press

(*Bolton Evening News* 8.11.02) which quotes him treat this as if it were a personal name. When not employed by 1st Ethical he works as an interpreter and religious adviser for various local agencies; he does not appear to have any qualifications in economics, finance or accountancy.

Looking at the “profiles” of members of staff, one has the impression that religious expertise is just one more skill which has to be recruited. The “team” requires someone who knows about tax, someone who knows about software development and someone who knows about the *shari’a*. In each case it is just a question of recruiting someone with a degree in the relevant subject from a well-regarded institution. The traditional role of master of religious knowledge is being assimilated to the dominant modern model of professional qualification and career development. The 1st Ethical “team” rather gives the impression of having been put together on the understanding that an expert in Islam plus an expert in finance produces Islamic finance.

When I first began to study 1st Ethical, this company seemed to present a rare case of a company involved with Islamic finance which did not employ Muhammad Taqi Usmani. After all, the traditional Islamic view would be that Moulana Hassan is as likely to arrive at correct opinions as the distinguished Judge. It seems though that this will not continue to be the case for much longer. The winter 2004/spring 2005 issue of the company’s newsletter reported that a group of staff from 1st Ethical had “accepted an invitation to attend a two week intensive course at [Mufti Taqi’s] university in Karachi, Pakistan, over Christmas [sic] and the New Year 2004-05”.

This visit must have been a success, because in June 2005 1st Ethical were involved in promoting a visit to the UK by Shaykh Usmani. According to the company’s own

website, it was “honoured to be hosting” him “throughout the duration” of his visit. The precise nature of “hosting” a public speaking tour is unclear. The announcement of the dates of Shaykh Usmani’s visit appeared on 1st Ethical’s website no more than two weeks in advance, which does not suggest a tour long planned in co-operation with the company. Understandably in light of the number of organisations with which Shaykh Usmani has an involvement, he was said in this announcement to have “a busy schedule of meetings with various bodies”. Whatever the exact degree of the company’s involvement in the visit, the association with it must be considered something of a coup for 1st Ethical.

Shaykh Usmani delivered a talk on “Interest and Islamic Finance” on three consecutive days in mid-June 2005 at mosques in Bolton, Batley and Leicester. This must have raised his profile considerably among British Muslims not involved in the financial world. Another effect will be a greater awareness by the many organisations which he advises of each other’s existence. Activity in Islamic finance has sometimes seemed during this study to be rather fragmented, with individuals working in one company in the field not always aware of other companies doing related work. (For example, when I visited Ansar Finance in the summer of 2004, the staff with whom I spoke had never heard of Fyshe Crestar.) The emergence of Taqi Usmani as a high-profile proponent of interest-free banking seems likely to have a unifying and galvanising effect on activity in the field, drawing those working in it together and facilitating exchange of ideas between them.

The 1st Ethical newsletter item cited above attributes Usmani’s removal from the post of Chief Justice of the Supreme Court of Pakistan to his calling for the country to outlaw interest. This demand by Usmani may explain some of his appeal to young Britons of

Pakistani descent, who have been observed often to have a somewhat idealised view of Pakistan's being a true Islamic state (McLoughlin and Kalra 1999).

Taqi Usmani is becoming such a dominant figure that it will soon be necessary for anyone active in the field of Islamic finance who disagrees with his interpretations of *shari'a* to take a conscious stand against him. The next generation of British Islamic financial institutions will perhaps split into pro- and anti-Usmani approaches.

Taxation and Shari'a

A fundamental question raised by the characterisation of the firm's business as being concerned with "mitigation of tax" is whether avoidance of tax is really in keeping with the spirit of Islamic finance at all. In my introduction I argued that the central notion underlying the prohibition of *riba* and the enforcement of *zakat* is the promotion of the circulation and redistribution of wealth. Both of these religious obligations tend to prevent the financial assets present in a community from piling up in the bank accounts of a minority of wealthy individuals. This is also the principle underlying the secular imposition of income tax. It is intended to redistribute money from the better off to the disadvantaged through paying for social services which are available to all on the basis purely of need. On the face of it, this is entirely in harmony with Islamic thought.

We also saw in the introduction that there is much uncertainty among modern writers on Islamic finance concerning to what extent the introduction of the secular welfare state has qualified the obligation to pay *zakat*. Where Muslim minorities in non-Muslim states are concerned, there seems to be general agreement that paying tax towards a non-Muslim welfare system does not in any way count towards the religious obligation

of alms. But does it then follow that it is entirely legitimate to seek to minimise the amount one pays in tax? Of course, not all the money raised in taxation goes towards welfare services, by any means. Many Muslims, if challenged about their employment of advisers to help them reduce their tax burden, would promptly retort that a significant amount of taxation revenue in recent years has gone towards waging war on Muslim countries, and that it is not only permissible but a positive duty to minimise one's contribution to this.

Religious justification is sometimes invoked for the absence of taxation in the oil states. The representative of an estate agency in Muscat explained (*Daily Telegraph* 23.04.05) that a great advantage of living in Oman was that "personal income tax is zero, tax being against Islamic law". The assertion that income tax is prohibited by *shari'a* is quite unfounded, and appears to be merely an attempt to give religious colour to an attempt to attract wealthy foreigners to move to the country.

The endeavour to produce a coherent religious opinion on income tax applicable both to Muslim-majority countries and to Muslims living as minorities in the West could become very complex and controversial. This question of the correct attitude towards taxation will surely become more important to the second and subsequent generations of European Muslims.

Wills and Inheritance

Another issue which will become more important as the demographic profile of British Muslims ages is that of inheritance. To date, attempts to raise the profile of Islamic inheritance planning have attracted little interest. As long ago as 1975 Zaki Badawi

devised a form of will which was valid under English law and arranged for the testator's estate to be disposed of according to *shari'a*, and apparently found very few Muslims interested in making use of it (Ansari 2004 p.230). Several explanations of this are possible. At that date the first generation of migrants were still relatively young, and perhaps not thinking much about dying. Many of them were financially and legally unsophisticated and not at ease with the process of making a will. Some may have thought that merely expressing their own wish for the disposal of their estate to follow Islamic precedent would be sufficient to ensure that this would happen, and were not aware of the need to ensure that this expression of wishes was formally valid under English law.

Now, thirty years later, this young company in Bolton is offering a form of Islamic estate planning which appears to do exactly the same thing as the form of will proposed by Badawi. It seems that 1st Ethical has found the prevailing situation to be little improved. Their booklet *Islamic inheritance tax and will planning* reports (p.3) that “unfortunately our experience has shown that only a tiny percentage of Muslims in the UK have a legally binding will. Of these, many are poorly structured and will not fulfil their intended purpose when the time comes”. This booklet is an exception to the company's general avoidance of ostentatious quotation from Quran and *hadith*. After opening with a pious invocation of the necessity of submitting to the will of Allah in matters of death as in life, it continues: “The obligation of making a will is found in the following hadith. ‘It is the duty of a Muslim who has anything not to let two nights pass without including it in his Will (*wasiyya*)’ Sahih al-Bukhari” (p.3). There then follows an account of the failure to ensure that an estate is distributed in accordance with *shari'a* which is produced by neglecting to make a legally binding will, from which I have quoted above. The impression given, then, is that it is a religious obligation to

make a will which is valid under English law. This represents an important shift from the assumptions of the first generation of Muslim immigrants.

Sufyan Ismail has written a lengthy paper on *Preparing an Islamic inheritance strategy* and appears to feel quite passionately on the subject. In this paper he cites the case (p.2) of a local Muslim businessman with whom he raised the matter of a will, who said that he was not certain whether making a will was permitted in Islam. This caused Mr Ismail some distress, especially as “alhamdulillah, the brother is one of the wealthiest businessmen in the area”. The prospect of a rising generation of successful Muslims having no understanding of how to ensure the Islamically appropriate distribution of their growing assets is a worrying one which 1st Ethical is dedicated to rectifying. Some of its staff gave talks on the topic on Ramadhan Radio stations in 2004, in which they had been instructed to stress that will writing is “a neglected sunnah” (newsletter winter 2004/spring 2005). A neglected religious obligation is the best possible way of generating business for the adviser who reminds the faithful of it.

Clients are requested to complete a form (*Fact finding for will writing and inheritance tax planning*) which will provide the advisers with all the relevant information about their financial and family situation before meeting to discuss the drawing-up of a will and arrangements for minimising inheritance tax. Section 12 of this form constitutes what is referred to by lawyers as a “letter of wishes”, which 1st Ethical says it must have to accompany the will. It says: “This section is very important. Please confirm that you wish your estate to be distributed in accordance with Shariah law”.

As prudent professional advisers are expected and indeed obliged by their regulatory bodies to do, 1st Ethical then makes the client aware of the implications of confirming

that they do so wish. “You should be aware that in most scenarios the wife’s entitlement under shariah is $\frac{1}{8}$ th of the husband’s estate and the husband’s entitlement is $\frac{1}{4}$ of the wife’s estate. Parents are also entitled to a share which is usually $\frac{1}{6}$ of the estate.” It is a little strange that this caution does not also include information on the unequal provision for daughters as opposed to sons under Islamic law. Perhaps it was felt that to spell this out at this preliminary stage might deter potential clients. The provision for parents sounds generous compared with English law, and conveys a positive impression of Islamic inheritance law, whereas the differential treatment of daughters is difficult to present as being anything other than less favourable than the normal arrangement under English law.

The detailed description of the provisions of Islamic inheritance law provided on the website and in a downloadable booklet (*Islamic inheritance tax planning and will writing* p.10) does, however, explain the situation in full. “In the majority of cases, the estate is usually shared between the deceased's remaining parents, spouse, and children. Typically each surviving parent receives one sixth of the estate, the surviving spouse either an eighth or a quarter, and the balance is shared by the surviving children so that the sons inherit double the share of the daughters.” Presumably this matter will be discussed in detail when the will is formally drawn up, and it will be very interesting to see how many clients eventually decide to proceed with a form of estate planning which is entirely in accordance with Islamic tradition. It may well be that 1st Ethical finds as little enthusiasm for this service among the British Muslims of the early 21st century as did Badawi among their parents’ generation.

I would suggest that the most likely line of development is for a combination of provisions of both English and Islamic law to be used to produce desired outcomes, and

the most favourable Islamic light cast on the result. One suggestion of how this might be done comes immediately after the description of the rules on children's inheritance quoted above. "Any gifts made during life are not subject to this Quranic injunction. Lifetime gifts should be equally shared between children irrespective of gender." It is easy to see that this could be a way out of the dilemma. A testator could make substantial lifetime gifts to his children equally, to mitigate the effects of the unequal posthumous distribution, and still be technically in conformity with *shari'a*.

The estate planning service offered by 1st Ethical does not only seek to ensure compliance with *shari'a*, it is also concerned to minimise inheritance tax. (We have already discussed the issue of whether tax avoidance is in keeping with the spirit of *shari'a*.) One of the most important devices for doing this is "inter-spouse exemption", whereby gifts between a husband and wife are exempt from taxation. A possible pitfall for Muslim couples planning to make use of this is that they may not be legally married in the United Kingdom, because the Muslim *nikkah* wedding ceremony is not recognised here, and it is necessary to have a civil marriage ceremony performed as well. 1st Ethical breezily advises its clients that a civil marriage certificate can easily be obtained by arranging a marriage ceremony at a local registry office. One can see that the exigencies of inheritance planning, and indeed of taxation minimisation generally, are likely to constitute a pressure towards conformity with civil law in the matter of marriage, and eventually are likely to reduce the incidence of couples who choose only to marry in a religious ceremony.

Home Purchase

1st Ethical acts as an adviser and broker for *halal* home purchase schemes. It publishes a guide to the way both *ijara* and *murabaha* schemes work (*Islamic finance: halal*

property purchase), which is the most thorough and lucid explanation of these forms of loan which I have seen. It is not a tied agent for any one provider but can arrange a loan for a client under any of the schemes available. There are at present only “three” suitable schemes available for it to choose from, but the company promises to “constantly research the market” (p.8) to spot any new ones which may have appeared. The names of the three existing schemes are not specified, but I would imagine that they comprise the HSBC *ijara* loan and the two loans, *ijara* and *murabaha*, offered by Ahli, formerly United Bank of Kuwait. This thesis has also found three providers of Islamic home purchase loans, Ahli, HSBC and Ansar, but the nature of Ansar as a membership society would preclude a loan from it being offered by a broker, and when I mentioned 1st Ethical to the staff at Ansar they gave no indication that any business relationship existed between them.

The appearance of an Islamic “mortgage” broker is significant and likely to be a factor of increasing importance in the development of the market for *halal* home loans. In future it will not be sufficient for a scheme merely to promote itself as *shari’a* compliant, it will need to be competitive with other *shari’a* compliant schemes.

Future Developments

Towards the end of my period of study the British government introduced a scheme under which all new-born babies born after 1 September 2002 were given £250 to be invested on their behalf and held in trust until they reach the age of eighteen. Reports in the media (e.g. *Daily Telegraph* 04.06.05) indicate a worrying degree of ignorance about and even indifference to these Child Trust Funds on the part of new parents. It is evident that the dilemma about how best to invest this money is still more acute for

Muslim parents, if they wish to avoid *haram* forms of investment and yet still do the best for their child. This would appear to be a golden opportunity for Islamic investment providers, who have been handed on a plate both a large amount of windfall money and a ready-made marketing campaign. (One imagines that the advertising would be something in the nature of an exhortation to “invest in the future of British Muslim children”.) I contacted 1st Ethical to enquire if they knew of any Islamic providers of Child Trust Funds. The reply came from M.Iqbal Asaria of the Business and Economics Committee of the Muslim Council of Britain, who said that “Sufyan” had forwarded my enquiry to him. He advised me that “we are hopeful that in the next 3 to 4 weeks a leading provider of children’s investment will offer a Shariah compliant CTF” (personal communication 17.06.05). Naturally he was not able to reveal any more details of this commercially sensitive development. This exchange of communications served the incidental purpose of demonstrating the existence of a close working relationship between the MCB Business and Economics Committee and 1st Ethical.

At the time of writing (late June 2005) 1st Ethical are trying to develop an Islamic venture capital fund. This will employ the principle of *musharaka* to bring together Muslims with capital to invest with Muslim entrepreneurs. This is an ambitious and exciting scheme; again, it will be necessary to revisit the company in a few years’ time to see what has come of it.

Developments in the Stock Market

There are two kinds of tax-exempt Individual Savings Accounts, known by the acronym of ISAs, available in Britain, which can conveniently be used to illustrate the

preference of the Islamic tradition for equities over fixed interest.¹ The commonest kinds of ISA are interest-bearing – were, indeed, designed to pay a high rate of interest without any tax liability. They are therefore covered by the issues related to savings accounts which were covered in the *Riba* section of this study.

There are also, though, so-called “stocks and shares ISAs”, that is, investment funds which increase the value of the money deposited through purchasing equities rather than through payment of a fixed rate of interest. These are potentially acceptable to Muslims, and there are now Islamic ISAs available. For example, the Parsoli fund discussed below is available in the form of an ISA.

Other savings accounts based on profit share rather than interest could be developed by Islamic product providers. One difficulty with this in the past has been that the profits on such accounts based on the *mudaraba* principle were treated for tax purposes in the same way as company dividend payments, which could render the holder liable to corporation tax. The present government has been made aware of this, and, in the same way as it has abolished the liability for double stamp duty in order to encourage Islamic forms of home purchase, announced in the Budget of March 2005 that the necessary amendments to legislation would be made to enable profits on Islamic savings accounts to be taxed on the same basis as interest on conventional savings accounts.

One of the most exciting but also most controversial areas of development in Islamic finance at the present time is that of hedge funds. Despite the name, these have become vehicles of some of the highest risk forms of investment. They are funds which were

¹ When ISAs, were first launched, it was reported (*Financial Times* 09.01.98) that some Muslims found the name objectionable because Isa is the Arabic form of the name Jesus. It must be considered most unlucky that the Treasury had happened upon a name which was objectionable for such an unlikely reason. I have not though come across any record of Muslims avoiding ISAs for this reason.

originally designed to protect investors against loss due to market fluctuation through a variety of instruments which essentially bet on the market's direction. On some interpretations, this falls foul in purely formal terms of the prohibition of both gambling and insurance. More fundamentally, the very idea of attempting to protect against investment losses seems to subvert the principle that "reward goes with risk", that there can be no legitimate profit without an accompanying risk of loss, which is the basis of the prohibition of the payment of fixed interest on secure savings accounts. Rodney Wilson, an expert on Islamic economics, appears to be very sceptical about Islamic hedge funds. He was quoted (*New Horizon* February 2003) as saying of them that "the basic concepts of ethics and morality are flawed here". Here, then, is a front line conflict between religious idealism and the baser instincts of human nature, fought on the field of technical innovation.

One of the conventional techniques of hedging is known as "shorting". To protect against a falling market, a fund manager borrows a stock he does not own and sells it on, then buys it back more cheaply later when the price is lower, retaining the profit. This violates a fundamental principle of the Islamic regulation of trade, that a seller cannot sell something he does not own. (When tangible objects are concerned, this is also a fundamental principle of English law, for obvious reasons, but in the parallel universe of the financial markets different rules evidently apply.)

Islamic hedge funds have developed an apparently *shari'a* compliant form of shorting based on the *bay' salam* (*bay'* means "sale"). This is a form of sale where payment is made in advance for future delivery, normally with a discount on the price in return for agreeing to delay delivery of the goods. The Prophet himself is reported to have engaged in such a sale, as I explained in my introductory chapter. This form of

agreement can be used by a fund manager to agree to purchase a stock in the future at a price below its present one. This is the method used by the US fund Permal, which claimed to have launched the first ever Islamic hedge fund (*Financial Times* 17.11.03), although other funds also claim this distinction.

Non-Muslim commentators have found it difficult to understand how the *bay' salam* is different from “*riba* by delay”, but there can be no argument that any behaviour engaged in by the Prophet is by definition *halal*. At the present time this example is being used to legitimise some forms of futures trading, and it could potentially open up a wide range of licence in this area. So far, though, none of the British based companies considered below appear to regard forward trading as legitimate.

Developments in Islamic finance in Britain seem to be generally proceeding with caution and avoiding controversial or unusually liberal interpretations of what is permissible. The Karachi based authority Muhammad Taqi Usmani, who is very prominent among *shari'a* advisors in Britain, is regarded as conservative in his judgements. It is of course difficult to say which came first – whether developments in Britain are inclining to conservatism because of the employment of a conservative scholar, or whether British companies chose to appoint a conservative adviser because this was the direction in which they were already inclined. Perhaps counter-intuitively, it seems to be easier for banks in Muslim-majority countries to get away with controversial developments, because they are under less pressure to prove that they are truly Islamic. For Muslim minorities in Europe, it is important that Islamic products be clearly circumscribed and differentiated from the non-Islamic.

The chairman of the FSA mentioned in his speech to a seminar on Islamic finance (Davies 2002) that some Islamic banks made use of the London Metal Exchange for *murabaha* transactions. Howard Davies appeared to regard this use of the London Metal Exchange as a positive development, but it must be considered very questionable within the *fiqh* tradition.

The buying and selling of metals has an air of Islamic respectability, because gold and silver are two of the commodities most frequently mentioned by name in the *fiqh* discussion of which goods can be exchanged in what form without the transaction becoming *riba* (see Saleh 1986 throughout). In a tradition which insists that all trading should be based on underlying tangible assets, precious metals are regarded as the most solidly tangible, and other metals are easily assimilated to this tradition. Indeed, some commentators have justified currency exchange as being *halal* by interpreting it as analogous to trading in gold and silver (Vogel & Hayes p.117).

Almost certainly, however, the transactions to which Howard Davies was referring are not strictly legitimate *murabaha* contracts. That is, they are not genuine double sales with possession taken before re-sale, which has traditionally been regarded by experts as essential for a cost mark-up to be legitimate. They are an example of a technique to realise a quick profit or short-term liquidity known as “synthetic *murabaha*”, which is very commonly used by Islamic banks in a great variety of contexts (Vogel & Hayes pp. 140-143 and p. 235). The term “synthetic” denotes a situation where the commodity does not physically, or in some other meaningful way, change ownership, but is only transferred on paper. In the past this technique has been extensively relied on to compensate for the lack of other acceptable ways of generating a short-term cash flow, but it is increasingly being viewed with disfavour by *shari'a* experts.

Bonds, or fixed interest securities, are, of course, not Islamically acceptable precisely because they pay a fixed rate of interest. Warde (2000 p. 139) sees the emergence of “principal only” bonds as one positive result of the increasing ingenuity of innovation in the financial markets. In this case, a bond has been separated out into its two components of principal and interest, and the former can be sold to Muslim clients who wish to avoid interest.

An Islamic form of fixed interest securities known as “*sukuk* bonds” are currently being promoted as the next big thing in Islamic finance. A quick internet search for the topic revealed several recent conferences on the subject, including one organised by Norton Rose, the London firm with a specialist interest in Islamic finance, on 19 October 2004. The programme for this stated that the firm was working to “devise innovative structures to transform conventional bonds into Islamically compliant instruments”. The reason for the excitement about this development is that inability to securitise assets, that is to convert assets into a form which can be traded in order to resolve short-term cash flow problems, has left Islamic banks with chronic problems of liquidity (Vogel & Hayes p. 198) which has been one of the major obstacles to their expansion. The term *sukuk* appears to derive from an Arabic root meaning to coin money.

The legal basis for this development is a decision of the Fiqh Academy of the Organization of the Islamic Conference in 1988 that any collection of assets may be represented in a written note, and that this note can then be traded in the market, provided that the assets represented comprise a majority of physical assets and only a minority of cash and debt (Wilson 2004). It seems rather surprising that legal clearance for Islamic bonds was available as long ago as 1988 and it is only now that they are

being developed on a large scale. This seems to demonstrate that merely being Islamically possible is not of itself sufficient to ensure that a product will appear. The development of *sukuk* bonds took the impetus of a global financial market eager to find new Islamic products on which to make a profit.

Unfortunately the interest in *sukuk* bonds began to emerge only at the very end of the period of research on this thesis, and as yet there do not appear to be any providers aiming them specifically at the British market. This will certainly be an area to watch. Bonds are also being developed which securitise *ijara* contracts (ibid.), and, taken in conjunction with the rapid growth in *ijara* forms of house purchase loan, this could be a very exciting area of growth for Islamic finance in Britain.

The term “derivatives” often appears in discussion of the financial markets. This refers to a very wide variety of sometimes extremely complex products which are “derived” from a real asset in fairly obscure ways, and in summary act as a way of managing risk (Warde 2000 p. 139). They have been developed only in the last twenty years and are therefore a very recent challenge to Islamic scholars. They raise serious issues of *gharar*, since some of them are highly speculative, and some very far removed from the notional underlying asset. As scholars become more familiar with complex financial products, some are issuing opinions that some derivatives may be acceptable. At the present time, however, British Islamic product providers do not seem eager to embrace derivatives.

Parsoli

Parsoli (UK) Ltd is a wholly owned subsidiary of Parsoli Corporation Ltd, a company based in India and listed on the Bombay Stock Exchange. The UK office is in

Dewsbury, West Yorkshire. It is safe to say that Dewsbury would not be the first choice for a non-Muslim international financial group looking to set up a British office, but this is an example of how the network of “nodal cities” of the Islamic world sometimes differs from those of the non-Muslim world. Dewsbury is a fairly small town but has a large Muslim population. (In the 2001 census the local authority area within which it falls, Kirklees, had a population of 388,567 of whom 10.1% were Muslim.) Lewis (1994) opens his account of “Islamic Britain” with a description of the funeral of a venerated Sufi *pir* in Dewsbury, attended by thousands, many of whom had travelled from abroad.

In 2001 Parsoli (UK) launched what it claimed was the UK’s first *shari’a* compliant investment fund. The full name of the fund is the Parsoli Global Islamic Equity Fund. It qualifies as an Individual Savings Account or ISA and is fully approved by the Financial Services Authority, after the FSA had agreed to approve the unorthodox process of “cleaning” the fund of non-compliant profits by giving them to charity (*Financial Times* 09.08.01). The launch received substantial coverage in the local press (summarised in *BMMS* June 2001), and thus seems to have benefited from the same regional loyalty factor which I have discussed in the case of 1st Ethical.

The parent company’s website (www.parsoli.com) features an impressive animated opening sequence which shows a beam of light moving across a map of the world. Visual representations of the light of Islam illuminating humanity are common on Islamic websites; this is one of the best I have seen. The site then shifts to a map on which three copies of a symbol consisting of the letter P inside a circle are flashing,

over the United Kingdom, India and the Middle East respectively. These of course illustrate the company's areas of operation.

The charges made by this fund are regarded by financial commentators as being “at the very high end for an investment fund” (*news.bbc.co.uk* 12.11.01), which the director, Habib Aduki, blamed on the need to pay the firm's religious advisers. It is clearly true that the need to retain a group of *fiqh* experts is an expense not incurred by a non-Islamic company, but it is doubtful that this is the sole or even major reason for Parsoli having high charges. Most Islamic operations are forced to charge higher than average fees because they have only a small customer base across which to spread costs, and because they are by definition limited in the range of investments available to them, which potentially limits their profitability. It is significant that Mr Aduki chose to throw the blame on the one factor to which pious clients could not object. One could perhaps suggest that there is a danger in his clients taking him too seriously in this regard, as it could bring into focus the uneasy relationship of the *shari'a* advisers with the company for which they work – in receipt of payment from it and yet expected to provide disinterested advice. It could also generate resentment of their privileged position – privileged in terms of both financial rewards and the authority to condone or condemn. I would anticipate that such resentment of scholarly authorities employed by financial product providers will become a more salient factor in the adoption or rejection of Islamic products, as knowledge of them is more widely diffused among the Muslim population.

In his interview with the *Financial Times* (09.08.01), Mr Aduki engaged in the strategy which will by now be familiar to readers of invoking the astonishing extent of the as-yet unsatisfied demand from Muslims for his products. “The market for [Islamically

acceptable] mutual funds alone is worth trillions of pounds ...there are probably two million Muslims living in the UK but their participation in this market is minimal.” The vision of “trillions” of pounds migrating to Dewsbury makes even HSBC’s predictions look conservative.

In the case of Parsoli there is a parallel to this exuberance about the financial potential of British Muslims in the situation of Muslims in the company’s home country of India. The company website says that “the prime motivation to set up the company was to tap the vast and untapped potential Muslim investments in India”. The wealth of the Muslim population of India could more legitimately be described as “vast” than that of the Muslim population of Britain, and one wonders if the two entities are blurring somewhat in Mr Aduki’s mind. In fact, the two are explicitly linked in the description of the fund’s target market, which lists three components: “the Muslim Community in India”, “the Non-Resident Indian Muslims” and “the Muslim Community around the World who are already active into investments in the Stock Market but rarely invest in India due to their lack of awareness of the Indian Market”. Given the widespread hostility to India among British Muslims, the majority of whom are of Pakistani descent, it is questionable whether an invitation to invest in the country will receive an enthusiastic response from them. One imagines that Britons of Pakistani descent are only likely to wish to invest in Indian companies if they are persuaded that this will increase the wealth of Muslim Indians at the expense of their Hindu compatriots, and it is not clear that this is in fact the company’s intention. There is nothing specifically mentioned in the account of its investment criteria about avoiding companies owned by Hindus, which is probably what it would take to satisfy some British Muslims.

Parsoli’s list of forbidden investments is a standard one. It excludes companies involved in any way in the production of pornography and companies deriving more than 5% of

their profits from alcohol, pork, gambling, conventional insurance or conventional banking. Naturally it excludes fixed interest investments. Forward trading (i.e. futures) is also prohibited. Derivatives, which as explained above is a term referring to a large variety of complex products “derived” from some real underlying asset, are also listed as excluded, without qualification. The reasons for these restrictions will be easily understood by anyone familiar with the basic principles of Islamic economics.

It is less immediately apparent why companies with debt to equity ratios exceeding 33%, or with assets in the form of cash and accounts receivable of more than 45%, are also regarded as illegitimate investments. Both of these situations are regarded as involving a company in an unacceptable degree of risk, to the point where their activities become speculative enough to qualify as *gharar*. It is a general principle of Islamic law that trading activity should be based on the ownership of tangible assets, that is the equity part of the ratio, not on using money to make money, which is what a company is effectively doing if it is financing its activities by a high level of debt. It is possible for a company to use its accounts receivable, or money owed to it, as a form of collateral for a loan, or to sell these debts to a third party. Both of these practices are generally regarded as Islamically unacceptable. If a high proportion of a company’s notional assets are actually money which is owed to it rather than being already under its control, this begins to take on the character of speculation. Again, given the preference for real assets, such as buildings, equipment and stock, a high proportion of assets in liquid form again takes on the character of making money out of money rather than out of trading goods. Of course, it is likely that a company’s debt has been incurred in an interest bearing form, which is another reason for it to be considered objectionable, but this is not the only reason for objecting to high debt ratios.

There is also a fail-safe exclusion of any other activity ruled non-compliant with *shari'a* by the Shari'a Supervisory Board. The Board consists of the by now familiar names of Shaykhs Muhammad Taqi Usmani and Nizam Yaquby.

To date the equities based investment fund is the only product offered, but Parsoli (UK) is also developing a pension plan. At the time of the launch of the equities fund (*Daily Telegraph* 09.08.01) the company said that it planned to launch the pension scheme in November of that year, during Ramadhan, but at the time of writing (late June 2005) there is no sign of their having done so. The company's website still describes the pension plan as being at the planning stage. It also states that it hopes to develop housing finance, though it may perhaps have left it a little late to enter that market, which is set to become quite competitive over the next few years.

The Islamic pension plan which they have in development is administered by a wholly owned subsidiary of Credit Suisse. This raises all the same issues as those prompted by the introduction of an Islamic house purchase loan by HSBC. The Islamic product is merely one product among many entirely non-Islamic ones offered by a giant multinational financial company, and is therefore inextricably entwined with a *riba* based system.

Fyshe Crestar

In July 2003 the Fyshe Horton Finney Group launched an Islamic division called Crestar, a name derived from the Islamic symbols of the crescent and the star. It announced that Crestar would offer investment advice as well as execution services, and would screen well known companies for Islamic acceptability. Crestar claims to be the only Islamic advisory stockbroker (that is, as opposed to execution-only, where the

broker merely carries out the client's instructions without offering an opinion on whether or not they are sensible). Many Islamic companies claim to be the "only" or "first" of their kind. The accuracy of this claim usually depends on whether only British companies are meant, and in what sense a particular company qualifies as British – which, as we will see in the case of the next company studied, can be hard to gauge.

It is noteworthy that Crestar overtly targets non-Muslim investors who seek a more "ethical" approach as well as the Muslim market. The Crestar page of the main Fyshe website (which is separate from Crestar's own site) claims that: "the service suits many conventional investors who wish to apply key ethical guidelines to their investment practice". In the "frequently asked questions" section of the website a clear distinction is made between Islamic and merely ethical accounts. The reply to the question: "Will I receive interest on cash on my account ?", is: "Shari'ah compliant accounts are structured not to receive any interest. Ethical accounts are structured to receive interest with the onus on the investor to dispose of the interest as deemed appropriate." The assumption seems to be that even the most ethically minded non-Muslim investor does not take this commitment to the extent of foregoing interest, which remains a purely Muslim phenomenon.

In February 2004 Fyshe Crestar launched a property investment fund, which would "not rent properties to organisations involved in trades such as alcohol, armaments, tobacco, pork or gambling" (*Financial Times* 10.02.04). The explanation of its investment criteria given on its website is similar. It lacks the clarity of Parsoli's, which gives a precise 5% exclusion threshold for income derived from *haram* sources, and says only that "qualitative criteria are used to exclude the impact of income derived from haram

activities, such as alcohol, pork related products, conventional financial services, insurance, gambling, tobacco, weapons etc”. The inclusion of the term “etc” is particularly unsatisfactory here. Any potential customer seeking assurance of juridical rigour in investment decision-making would need to contact the company for further details.

The list of forbidden investments does though expressly mention companies with debt ratios of more than 33%, which is identical to Parsoli. This cut-off point at one-third appears to have been now accepted by scholarly consensus as an Islamic standard. It excludes companies with assets in the form of cash and receivables of more than 49%, which is slightly less cautious than Parsoli. Companies with more than 5% of income derived from “usury” are excluded. This is identical to Parsoli but given rather more prominence by being referred to by this forceful old-fashioned name, resonant to non-Muslims also in a way that “fixed interest” is not. Crestar also explains that “some conventional trading tactics” are forbidden. This includes the use of derivatives.

Another conventional trading device regarded as illegitimate by Crestar is trading on margin. In this practice, an investor opens an account with a broker, known as a margin account, which allows him to spend more on shares than he has actually deposited in the account. Typically, he is allowed to spend double the amount deposited. He is thus borrowing from the broker. The idea is that when the shares are sold at a profit this will repay the loan, and that over a period of buying and selling the total in the account will increase. This device is potentially very lucrative but also extremely risky. It is possible for all the accumulated profits to be wiped out in one ill-advised transaction, and in some cases it is possible to lose more than the balance of the account and have to repay the broker more than the amount originally deposited. This practice clearly qualifies as

gharar, or possibly, in extreme forms, even as *maysir*. Since the client pays interest to the broker on the amount borrowed, *riba* is also involved. The practice is thus about as *haram* as it is possible to be.

The inclusion of armaments in Crestar's list of excluded investments may indicate the attempt to appeal to a wider "ethical" market. There are no immediately obvious Islamic grounds to forbid profiting from weapons sales generally. The question would have to be considered within the wider context of Islamic juridical opinion on what constitutes a "just war". It is though true that, according to the Dow Jones organisation (see below), "shari'ah scholars do not advise" investment in armaments manufacturers. It certainly seems unlikely that in the present international situation many Muslim investors would object to the exclusion of British, European or US arms manufacturers from their portfolios, and it is presumably these with whom a UK based company would be mostly concerned.

Opening an account with Fyshe Crestar gives one access to a trading screen which gives information about a particular stock and can be used to place orders to trade. This screen also has a "shari'ah compliance box", which will flash up either Yes in green or No in red at the same time as the price comes up. This is presented as one powerful incentive to open an account. "If you do not have an account with us you will not be able to check Shari'ah compliance" (number 6 in the "frequently asked questions"). This seems not to be entirely true, as it is stated elsewhere on the site that if a client has any concerns about compliance he needs only to telephone an adviser. The company are, though, entitled to feel proud of this ingenious piece of software, which they also mention as making their charges especially good value. Number 11 of the "frequently asked questions" states that they believe their flat fee of £14.95 is very competitive, "given the

charge is inclusive of our Shari'ah compliance filtering process". It is interesting that this screening process is presented straightforwardly as an extra service performed by the company for the client, for which they can legitimately charge. All the Islamic finance companies I have looked at place the emphasis on removing the need for the client to engage his or her own brain in deciding whether a product is acceptable. No actual knowledge of the *fiqh* tradition is necessary, the client pays an expert to make the legal decisions and merely waits for the computer screen to say Yes or No.

The Fyshe group has offices in Leeds and Huddersfield (as well as London, Birmingham and Leicester), which led to a detailed article about the launch of Crestar in the *Yorkshire Post* (27.07.03). This article should be commended for avoiding hyperbole about the dizzying potential of the Muslim market and providing a very accurate description of the British Muslim population, quoting the census figure for the overall number of Muslims of 1.6. million and then breaking it down by ethnicity on the basis of "a 1997 study by the Runnymede Trust" (probably *Islamophobia: a challenge for us all*). This is a more scholarly summary of the actual state of the Muslim market, or at least the Muslim population, than anything I have come across in articles about Islamic finance by writers for the national press, who presumably could have accessed the report by the Runnymede Trust just as easily if they had felt it worthwhile.

The director of Fyshe Crestar, Hardeep Tamana, chose a rather surprising formulation to describe the results of selecting investments according to the advice given by his newly launched fund (*news.bbc.co.uk* 28.07.03): "you're not going to get a balanced portfolio but the net result is you are meeting with your faith". This begs the question of what constitutes "balance" in a portfolio. One of the marketing points of Islamic funds is that they are more "defensive" than conventional ones, that is, they avoid high risk stocks.

This is not an Islamic principle in itself, but tends to be the result of avoiding companies with high debt ratios, who are vulnerable to changing market conditions, and ethically problematic products, which tend to be vulnerable to adverse publicity and government actions.

The Crestar website is at the opposite end of the Islamic ostentation spectrum from 1st Ethical. Every item is punctuated with a beautiful photographic detail of a mosque. The downloadable brochure is illustrated with Arab calligraphic designs. The name Crestar is displayed with the initial letter C in the form of a crescent and a star juxtaposed to it. It is obvious to the casual web surfer that this is an Islamic company even before he has read any of the text.

As for the vexed question of appropriate dress for female models in publicity material, Fyshe has dealt with it by simply not having any women in the photographs. The illustrations of supposed members of the investment advisory staff and their clients, of which there are several on the website, feature a selection of men of diverse ethnic origins, dressed in conventional business suits. A quick glance at the list of staff members confirms that there are no female financial advisers working for Crestar, but this is no reason to exclude women altogether from the illustrations. The list of the company's "values" includes "family" but there are no families to be seen in the pictures.

The effect of this is curiously old-fashioned. Today it is taken for granted that happy family groups will feature on the publicity material of all financial institutions, conveying the subliminal message that by buying their products the investor, still usually imaged as a traditional male breadwinner, is providing for his family and thus

fulfilling his responsibilities. In the specifically Muslim context, the inclusion of women in a company's presentation of itself to the world has become a signifier of modernity. The absence of any women from Crestar's material is somehow unsettling to anyone who has studied a large amount of material produced by British Muslims. It suggests that the company is not quite up to speed with the dominant political programme of British Muslims, which adopts the discourse of human rights and equal opportunities and promotes the defence of Islam within that. Islamic finance companies are in the vanguard of the development of Islam in modernity, and usually want to advertise the fact. One conventional way of doing this is by demonstrating the existence of highly educated, affluent, independent-minded yet *hijab*-wearing women, preferably among their staff but failing that at least among their customers.

At first sight, the choice of such a solidly "men in suits" form of self-presentation by Crestar is also at odds with the explicit attempt to attract non-Muslim ethical investors. The latter tend to be concerned about gender equality and a perceived lack of it is probably the most important factor deterring them from seeing Islamic products as able to fulfil their ethical requirements. Reflection suggests, however, that, given that many non-Muslims believe that the requirement to cover the head is oppressive of women, the depiction of women in headscarves might deter non-Muslim potential customers even more than not showing any women at all.

Some readers may feel that the amount of space I have given to discussing the issue of female models in photographs on the websites of both Crestar and 1st Ethical is excessive. I can only reply that the obsession with women's clothing which is a prominent feature of writing on British Islam at the present time is contagious.

There has been something of a race to provide the first truly Islamically acceptable pension scheme, so it is not surprising that Crestar has blazoned the announcement of its own pension plan on the home page of its website under the heading: “New Product Alert!” (as found on 18.05.05). It continues: “The UKs [sic] only Shariah Compliant Private Pension. A Straight forward [sic] pension plan that allows the long term building of wealth for retirement in a Shari'ah compliant framework”. For further details the reader is referred to the “services section” of the site, but no more information is yet to be found there. It would be necessary to make a direct enquiry to the company, and unfortunately this product was launched so close to the end of my period of study that I have not been able to do so. It seems unlikely that this scheme’s status as the only compliant pension in the country will for long be allowed to stand unchallenged.

Crestar states that in the future it hopes to offer *takaful* insurance. This is likely to be the next big growth area for Islamic finance, once demand for house purchase loans has been largely satisfied.

Also listed under “forthcoming services” is a hope that Crestar may soon be able to offer a return on money deposited with them through a *murabaha* scheme. A normal broker pays interest on any money the client has deposited with the firm pending using it to purchase shares, and inability to do this significantly limits an Islamic broker’s ability to compete with a conventional broker. The development of such a scheme seems likely to confirm the cynical view that *murabaha* is merely interest by another name.

I-Hilal

The name of i-Hilal is often mentioned in discussions about Islamic finance in Britain. It was one of the companies participating in the production of the report on Islamic home loans by the Council of Mortgage Lenders (November 2001). To what extent it is really a British company is, though, debatable. It illustrates the difficulties of defining a company as British. The website of i-Hilal Financial Services (the word *hilal* is Arabic for “crescent”) states that it is part of the Rasmala group of companies, whose parent company is Rasmala Investments Holdings, which is based in Bermuda. Two contact addresses are given for i-Hilal Financial Services, one in London and one in Dubai. The site states further that Rasmala Investments (UK) Limited is a London based financial advisory company regulated by the Financial Services Authority of the United Kingdom, but does not elucidate the precise relationship between Rasmala Investments (UK) and i-Hilal.

The home page of the i-Hilal site says that it was established in order to “create an entity that is global in its reach”. The distinction between an entity which has a global reach and an entity which has been based offshore in order to avoid taxes in the territory in which most of its operations are conducted is not entirely clear in practice.

The *shari’a* advisory board of i-Hilal features Dr Muhammad Imran Ashraf Usmani, who is the son of Justice Muhammad Taqi Usmani, who features on the advisory boards of so many British Islamic organisations. Shaykh Nizam Yaquby, another very familiar name in the world of Islamic finance, is also on i-Hilal’s board. The other two members of the board are less familiar – Dr Muhammad Ali Elgari and Shaykh Yusuf Talal Delorenzo. The former is a professor of Islamic Economics at the King Abdul Aziz

University in Jeddah, and the latter is a former secretary of the Fiqh Council of North America. The Usmani dynasty is based in Karachi, Pakistan. The advisory board is thus itself global in its reach.

The Principal of the *American Journal of Islamic Finance* once wrote to the *Financial Times* (07.06.03) protesting against a previous article in that paper which had described Muslims as being hostile to capitalism. He insisted that Islam had no problem with either capitalism or globalisation. Rather, “Muslims are by definition globalisers, as are the adherents of any universal faith”. This rhetorical trope is widespread among activists of Islamic finance. Muslims are presented with a flattering image of themselves as being in the vanguard of the global economy. According to this version of the situation, while ignorant non-Muslims often perceive Islam as a backward, stagnant faith, it is in fact they, the secularists, with their nationally limited vision and no universal faith to widen their horizons, who are behind the times. The wording of i-Hilal’s description of itself is one example of such a discursive manoeuvre. Islam equates to globalisation which equates to modernity.

The description of i-Hilal’s investment criteria is a little short on detail. The website has an informative section headed “learn”, which explains the basic principles of Islamic investment, and would be a valuable educational tool for an investor new to the field. It does not however state definitely that i-Hilal itself observes such and such a criterion, but rather summarises some scholarly opinions.

“According to some scholars”, we are told, “up to 10% of a company’s total income can be derived from interest sources”. We have seen that other companies employ a 5% cut-off point, and if i-Hilal is using a 10% threshold instead, this would make it

significantly more liberal than some of its competitors. With regard to the minimum acceptable proportion of illiquid assets, “some” say that this is 51%, in accordance with the principle of Islamic law that “to the majority goes the verdict of the whole”. (This conforms with the maximum 49% liquid assets mentioned by Crestar.) Then again, “a few” cite 33%. Which opinion is adopted by i-Hilal itself is not made clear, though one could hazard a guess that it is likely to be the more generous figure. With regard to the debt to assets ratio, the usual figure of 33% is cited, on the basis of the same principle that “to the majority goes the verdict of the whole” (which does not seem entirely logical as a justification for a one-third ratio) and “subsequent scholarly opinion”.

In a separate paragraph of the “learn” section, it is stated that: “the opinions of contemporary scholars are converging more in favor of shares of companies whose gearing level does not exceed 33%, whose earning from interest and incidental *haram* activities do not exceed 5% of the total earnings and whose assets do not comprise cash and receivables in excess of 49%”. It does indeed seem to be the case that these proportions are emerging as a consensus, but it is still not clear whether i-Hilal is committed to them.

There is also some advice on Islamically acceptable trading practices. It is not permitted in any form to borrow at interest to finance trading. Apart from, obviously, making it illegitimate for a private investor to borrow from a conventional bank to fund a purchase of shares, i-Hilal regards this prohibition as ruling out trading on margin, hedge funds, arbitrage funds and leveraged buy-out funds, all of which involve some form of borrowing to fund purchases.

More philosophically demanding is the insistence that, in order to avoid speculation, the decision to buy or sell a particular share must be based on the long-term performance of the company, that is, related to its underlying assets and trading strengths, not made purely in the desire to make a quick profit from temporary market conditions. Naturally, trading decisions, “should be well timed to take advantage of market prices”, but they must not be based solely on short-term profit, but always related to the “fundamental value” of the company. The distinctions involved in this process of decision making – a process which, in the nature of the stock market, has often to be undertaken rapidly and at short notice – seem to be very fine indeed. Thankfully for the company, the financial adviser is not privy to the inmost secrets of the soul of the client who has made a request for a transaction to be executed, but can merely act on the assumption that the client has made it in full consciousness of his religious responsibilities.

The particularly interesting aspect of i-Hilal’s self-description is the section headed “structuring products”, which falls under the larger section “solutions”. (“Solutions” being the currently fashionable way for an organisation to describe its products or services, designed as they supposedly are to solve the clients’ problems.) Employing a welter of up-to-the-minute business jargon, the company explains that: “we work with blue-chip financial institutions and specialized ‘boutiques’ to source and advise on the creation of a ‘new generation’ of Shari’ah compliant financial products that compete in every respect with mainstream non-Islamic products”. They are “constantly endeavouring to identify new Islamic structures”, and “working with conventional product providers and assisting them to convert the conventional product structure to an Islamic one”. This is exactly the process described by Warde (2000) in his survey of the contemporary state of Islamic finance; ingenious financial minds are working on

ways of modifying existing products until they reach a state where they can both achieve the ends they are designed for and pass inspection by a *shari'a* advisory board.

Note that the line of development is all in the direction of tinkering with conventional products until they become formally acceptable under Islamic law. It is not a question of fundamentally re-thinking the assumptions of the world of conventional banking on the basis of the radical vision of social well-being expressed by the Quran's economic injunctions. The Islamic products are just one more source of welcome innovation, welcome because it creates more products to sell and contributes to the ever greater diversity in the already crowded financial marketplace.

The Dow Jones Islamic Index

This index was launched in 1999 by the Dow Jones organisation, which, as is well known, tracks the performance of American shares, in co-operation with a group of Islamic scholars who advised on the acceptability of the 600 companies which made up the Dow Jones Global Index. After this filtering process only 300 were left to form the nucleus of the new Islamic Index. Since the United States is the world's largest market, this index has naturally tended to form a reference point for Muslim investors in the rest of the world. The Dow Jones organisation has now added other Islamic indexes for different regions, including the UK. It was reported in May 2005 (*Financial Times* 13.05.05) that the Dow Jones UK Islamic Index had out-performed the FTSE 100 during the previous year, producing an overall return of 15.2%, which was double the return for the FTSE 100.

The names of the *shari'a* scholars on the Dow Jones advisory board seem very familiar indeed. Once again it includes Muhammad Taqi Usmani and Nizam Yaquby, whom we

have observed advising many organisations, and Yusuf Talal DeLorenzo and Muhammad Ali Elgari, whom we have noted on the advisory board of I-Hilal. The other two members are Abdul Sattar Abu Ghuddah of Syria and Mohd Daud Baker of Malaysia. All six are shown in a group photograph on the website.

I would not of course wish to cast any doubt on the scholarly eminence of these men or their suitability for the onerous duties which they perform for so many institutions. One reason for the frequency with which the same names recur on advisory boards is that Islamic finance is an extremely complex and specialised field. It requires a combination of expertise in both Islamic jurisprudence and the modern financial markets which very few people possess.

There must however be some concern about the long-term effects of the fact that the same handful of scholars are advising so many financial institutions, particularly when considered together with the fact that Islamic product providers encourage their customers to place total reliance on the *shari'a* advisers and not to attempt to understand for themselves whether a product is truly in accordance with the spirit of Quran and *sunna*. In the interconnected global economy these scholars have enormous power and influence, to a degree perhaps unprecedented in the history of Islam.

ANALYSIS

No soul knows what it shall earn tomorrow,
and no soul knows in what land it shall die.

(Quran 31:34; Arberry version)

The above quotation has a peculiar resonance for economic migrants. When in danger of becoming too involved in dry academic disputes, we would do well to remember the chronic emotional uncertainty at the heart of the migrant experience which it so beautifully sums up.

The British Muslim population

In the *Introduction* I discussed the assumption which prevailed in the literature on the first generation of migrants to Britain that their children, the second generation, would be torn between two cultures and suffer from a chronic identity crisis. This bleak view seriously under-estimated the human ability to learn from and combine a wide variety of cultural inputs. I hope that this study has demonstrated the existence of a creative synthesis of the rich diversity of their experience by at least some second-generation British Muslims.

The important division is not so much between generations as between social classes and educational levels. To some extent the division which does undoubtedly exist between generations is itself best conceived as a difference in class and educational

level. The majority experience of British-born Muslims is of a superior education to that of their parents, even if this is at the most basic level of achieving an easy functional literacy. As the experience of the first generation passes inexorably into history, our focus must be on the disparities in education and prosperity among second-generation Muslims (and, of course, descendants of other migrant groups). A young person of Muslim heritage with a degree from a good university has more in common with a non-Muslim Briton with a similar degree than with a young Muslim who left school with no qualifications. Obvious as this point may be, it is ignored with remarkable frequency by all parties concerned with the promotion of Islamic financial products – banks, government and media commentators.¹ I consider below in more detail some of the implications of this omission.

It is fairly self-evident that those involved in the field of Islamic finance are located at the higher end of the educational spectrum. The complexity of the issues involved in creating the new products which I have studied means that it cannot be otherwise. What is not quite so self-evident is how this relates to trends in modern Islamic thought. There is a movement at the present time among Muslims who think seriously about their faith, particularly younger ones, which is sometimes summarised as “back to the sources”. This involves returning to the fundamental sources of Islam, the Quran and the Sunnah of the Prophet, and attempting to read them afresh, as far as possible uninfluenced by the mountain of commentary which has accumulated over the centuries. Barlas (2002) is an interesting example of this;

¹ Fred Halliday mentioned, in his response to a lecture given by Sami Zubaida on 05.05.04 at Birkbeck College London, that he was once asked by a radio interviewer to describe the two main types of Muslim. He was aware that the question was designed to elicit an explanation of the differences between Sunni and Shia Muslims, but would very much have liked to reply, “the ones with money and the ones without”.

she attempts to demonstrate that readings of the Quran which have historically belittled and disadvantaged women are not justified by the text itself. Such an ambitious re-reading can only be undertaken by those with a good level of education, and in this way the increasingly textual or scriptural nature of the faith of many young Muslims compared with that of their parents is a product of the superior education from which they have benefited. This trend has important implications for the relationship between the ordinary believer and the professional imam or scholar.

Naturally we should acknowledge the continuing importance of ethnicity in creating fractures among the British Muslim population, but in relation to finance this is of far less importance than education and income level. The most salient ethnic division in the financial field is that between Arabs and the majority South Asian population.

Some of the banking initiatives which I have studied originate in the oil states, and any suspicion that “rich Arabs” are trying to profit from their non-Arab co-religionists is likely to prejudice the majority British Muslim population against these enterprises.

Academic discussion of the integration of immigrant communities has sometimes tended to neglect the importance of commercial factors and put too much emphasis on initiatives by public bodies. This is no doubt related to the fact that in the early days of immigration it was the public sector which was first confronted with the need to make policies which took account of the new migrants. Over time though the existence of a sizable Muslim community inevitably has meant that they have become a factor in commercial decision making by any company concerned to

maximise its sales. This is, in the famous phrase of Adam Smith, an example of “the invisible hand” of the market; in other words, a quite abstract, impersonal process.

Consideration of the economic importance of British Muslims does need to be qualified by an awareness of the importance of the wish to attract funds from Muslims overseas, particularly in a situation of flight of capital from the Middle East in the wake of the Iraq war of 2002 onwards. It is difficult to put an exact figure on this, but it is estimated that during the Gulf War of 1991 banks in the Middle East lost \$50 million (Vogel & Hayes 1998 p. 6) or 40% of their deposits (ibid. p. 8), and it seems likely that the enduring instability of Iraq and its neighbours created by the 2002 war will have caused at least as much money to flee.

Quite apart from the effects of political instability in the Arab world, the close relations between the majority of British Muslims who are of South Asian origin and their countries of origin makes it difficult to separate domestic from foreign assets. The frequency of visits to family members in Britain by relatives still based abroad, who spend a considerable amount while they are here, was explicitly referred to by Howard Davies, chairman of the Financial Services Authority, at a seminar on Islamic finance (Davies 2002). He claimed that in the previous year half a million Muslims had visited Britain from the Middle East and Pakistan and that they had spent nearly £600 million during their visits. It seems reasonable to assume that this has been a factor in the calculations of most organisations.

This forms an interesting comment on the debate about the “transnationalism” of Muslims. While the political debate continues to run around a well-worn groove, arguing about whether immigrants can be trusted to be truly loyal to their new country, or whether they must inevitably have divided loyalties, and what if any implications this has for the nature of citizenship in the modern world, the financial world takes transnationalism for granted, and just gets on with planning the best way to profit from it. In the financial world, the love of money, rather than being the root of all evil, has arguably produced policies which are more tolerant of attachments to more than one country, and thus in some sense more humane, than have the governmental policies generated by high-minded arguments about citizenship.

Having said that, much of the information on the size and affluence of the British Muslim population used by the banks in their internal discussion material appears to be inaccurate, always erring on the side of over-statement. We have repeatedly noted that material produced by the organisations studied in this thesis makes all kinds of loosely worded and hyperbolic claims about the size of the Muslim market, and that this is often repeated uncritically by media commentators. Many of these claims can be traced back to a report produced by the Datamonitor company in 2002 which calculated that demand for “Islamic mortgages” in the UK could reach £4.5 billion by 2006. This report seems to have planted the idea of a huge amount of money to be made in the Muslim market, an idea which then developed something of a life of its own and began to appear in forms increasingly further removed from the sources of the calculations performed by Datamonitor. This company, which produces reports summarising market trends and sells them to business, has issued several reports on the Muslim market over the last few years. Unfortunately those more than two years

old are no longer available, so I have been unable to check the accuracy of earlier reports. The company has now issued a new summary of the Islamic mortgage market (www.datamonitor.com 15.07.05) which states that it is worth “£164 million”. This seems to represent something of a decline from the 2002 prediction that it could reach £4.5 billion by 2006. This 2005 report is enthusiastic about the growth rate of the Islamic market, claiming that it has grown at an average of 68.1 % per year since 2000 compared to an average of a mere 16.2 % growth per year in the conventional market. This differential can of course be explained almost entirely by pent-up demand being satisfied, and is unlikely to continue for long. It is probably an unrealistic assumption that early growth rates could be sustained that led to such a high figure being projected for 2006.

The 2001 paper by the Council of Mortgage Lenders reproduces a table from a 1999 report by Datamonitor which concluded that there were 292,941 Muslims in Britain earning over £30,000 per annum. How this remarkably precise figure was arrived at, I am not in a position to say. In happy ignorance of the worrying trend for lower than average educational achievement among younger Muslims (Hussain 2004), the CML reported that second and third generation British Muslims “have shown success in educational and professional achievements” (2001 p.3) and that this, combined with their “natural inclination” to make financial decisions in accordance with religious conviction, made them a promising market. Here we see the potentially dangerous combination of an essentialist view of culture with an over-optimistic estimation of the material success of British Muslims.

The CML correctly identified the concentration of British Muslims in the age group where demand for financial products is at its highest (ibid. p.4), that is in young adult-hood, when people are thinking about buying their first home and joining a pension plan, and it is certain that this demographic factor is one of the main drivers of the increased supply of Islamic products at the present time.

A precise figure on the size of the Muslim population of the United Kingdom was not available until the release of the figures from the 2001 census, which did not take place until February 2003, but for some time before this fairly good estimates on the basis of country of origin had been available. We have noted (in the section on Parsoli) that a 1997 report by the Runnymede Trust contained an accurate assessment of the Muslim population, but that very few newspapers or other commentators made use of it. Many academic studies of Muslims in Britain contain detailed attempts to enumerate them, most notably the large-scale study of ethnic minorities in Britain by Modood et al (1997). Strangely, figures higher than the census one of 1.6 million continue to circulate. For example, the coverage of the launch of the HSBC Islamic home loan in the *Financial Times* (1.7.03) quoted a figure of 1.8 million, and this higher figure is still often seen. There seems to be a widespread assumption that the census figure represents an under-reporting of Muslims in Britain, and this belief is actively encouraged by some Islamic groups. It is difficult to see any grounds for this belief, because the Office of National Statistics released figures showing that the proportion of respondents who gave their ethnic origin as South Asian who did not answer the voluntary religion question was less than 1%, as opposed to 8% of the general population. It is sometimes suggested that a significant number of Muslims avoided completing the census form at all due to fear of persecution, but whilst this

may well be true of some recent or illegal migrants, people who are living in such a situation are very unlikely to have enough disposable income to be of interest to the banks.

The figure of 3 million Muslims in the UK given in the discussion paper produced by the Council of Mortgage Lenders (2001 p.3) is around double the census figure, and a third higher than most observers were estimating before the census. The paper cites no less an authority than the Home Office as the source of the figure, which raises some serious questions. It seems unlikely that the Home Office really were quoting such an inaccurate figure, but if they were, this is worrying. Even more worryingly, the paper claimed in the next paragraph that Leicester was predicted to become the UK's first "Islamic city", as the percentage of Muslims in the population rose above 50%. In fact, Leicester is predicted to become the first UK city with a *non-white* population greater than 50%, and is noted for the size of its Hindu population (15% in the 2001 census, as opposed to 11% Muslim). It is of course entirely possible that this howler was corrected in later internal discussion material produced by the CML, but the fact it ever made it into print at all does not inspire confidence in the quality of data on which the banks are relying.

If as a result of exaggerating demand in this way banks launch products aimed at Muslims which are a commercial failure, this is not simply a problem for the banks' bottom line, because the attempt has itself become a factor in the market-place. The banks are contributing to shaping and channelling Muslim consumer patterns, and this is not an "invisible hand" process, it is due to conscious human action. In other

words, the perception of socio-economic reality is important, not just the bare statistical facts of that reality.

The consumer model of integration

The modern phenomenon of intensive branding of products and the targeting of niche markets is a force running counter to traditional ideas about the assimilation of immigrants. While political discourse still assumes an increasing homogeneity of the population, marketing thinking seeks to stimulate differences between consumption groups, in order for the satisfaction of particular preferences to create “added value” and thus raise profits.

I have nicknamed this “the hundred-and-fifty-headscarves model of integration”. I took this phrase from an article in a special supplement on British Muslims produced by the *Daily Telegraph* (15.11.01) in the immediate aftermath of the 9/11 tragedy, when the public seemed to have an overwhelming desire to understand Islam better. In this article, a British Muslim woman assured us that just because she chose to wear *hijab* did not mean that she was not fashion conscious or did not wish to look her best. In fact, she possessed “more than 150 different scarves” and was careful to select the right one for every occasion. A similar theme emerged in one of the articles published by the *Guardian* (21.06.02) when at a later date it ran its own series on British Muslims. This was actually headlined: “In all modesty: wearing the hijab doesn’t mean you can’t be fashionable”. In it, a group of young British Muslim women explained that wearing a scarf was their own free choice, and that they actively tried to combine their religious requirements of modesty with an awareness

of current non-Muslim fashion. They liked to look in such mainstream clothes shops as Top Shop and H&M for skirts that were long enough to be acceptable for them, and were, at the time of this article, delighted that long skirts were in fashion. It is evident that once the managers of such shops are aware that they have a loyal group of customers who require a particular type of garment they are likely to make an effort to keep more of such garments on the shelves. It is even arguable that the return of long skirts to fashion may have been influenced by their constant presence on the streets being worn by women from ethnic minorities.

The emergence of a group of women who both insist on wearing headscarves and can afford to buy them in large quantities is a retailer's dream, since it is evident that from a retailing point of view customers who wear something on their heads are preferable to those who wear nothing. The implications of this first became fully apparent to me when seated on a bus close to a young woman who was wearing a large black headscarf subtly embroidered with the words "Calvin Klein". Aziz Al-Azmeh (1993 p.6) once illustrated a contrast between Islam and modernity by saying "a black headscarf is not a fashion statement", assuming that this was self-evident. Clearly, however, a black headscarf with a Calvin Klein logo on it is indeed a fashion statement, and on this occasion was functioning as the representative of modernity by contrast with the traditional South Asian dress worn by the woman's mother, sitting next to her. (A traditional dress which, incidentally, covered up rather less of the hair than did the daughter's voluminous designer scarf.)

I have deliberately enlarged on the example of clothing, at the risk of being thought trivial, to bring into clearer focus trends which are more difficult to discern in the abstruse field of financial products. In this thesis the emphasis has been on Islamic financial developments as *products*, that is, as being created, promoted and sold in order to make a profit. Restrictive customer requirements are good for product creation, because they form a niche market. Just as women with particular interpretations of modesty create a demand for long skirts, home buyers who refuse to pay fixed interest create a demand for a whole new kind of house purchase loan. It is all grist to the marketing mill.

The leading proponent of the free market, Milton Friedman, once (1962, p.15) used a remarkably similar example: “[The market] is, in political terms, a system of proportional representation. Each man can vote, as it were, for the color of tie he wants and get it; he does not have to see what color the majority wants and then, if he is in the minority, submit”. In Britain today we have a situation where every Muslim citizen is free to choose the colour of her own headscarf, and indeed to buy a couple of hundred of them in different colours if she has the desire and means to do so. This is generally regarded as proof of successful accommodation of minority cultures, even by those who would not normally see themselves as followers of Friedman.

This trend is being encouraged by the present British government, which has shown a preference for engaging with the voters as consumers rather than citizens, and tends to express its plans to meet their needs in terms of the satisfaction of consumer wants rather than the fulfilment of rights of citizenship. There is a growing literature on

this trend. John Clarke (2005) has argued that New Labour talks a great deal about citizenship but in a way that has emptied the term of meaning. Instead of being expected to have an active engagement with civil society, citizens are seen as passive units of desire, who express their membership of society through consumption and are encouraged to believe that they are entitled to have all their needs satisfied. Yet at the same time, Clarke says, there is a lack of recognition that consumption is not merely an economic act but the means by which people “mobilise other identities”.

This tendency is worrying in that desire to consume, unlike aspiration to political representation, is probably limitless. It may encourage the emergence of ever more fissiparous social groupings. If the aspiration to have wants satisfied is limitless, more and more finely detailed wants will emerge and the more finely nuanced they are the more likely they are to conflict with other people’s wants. This may well encourage the growth of a destructive form of “identity politics” in which, since identity is mobilised through consumption and consumption is constantly increasing, the claims of identity increase also.

The traditional view that there is a conflict between preservation of traditional culture and assimilation into the market is sometimes theorised with reference to Habermas’s concepts of the “life-world” and the “systems-world”. In modern consumer capitalism, according to this view, the former is invaded by the latter. I tend to agree with the view of Cornel West (Ross 1989 p. 274) that this is just another way of describing the commodification of culture, but appeals more to writers who prefer a weightier philosophical basis for their observations of modern

consumerism. I also find it an overly negative way of regarding the phenomenon, assuming as it does an essentially defensive posture on the part of those attempting to preserve the “life-world”. This view of culture as passive and static has been brilliantly refuted by Gerd Baumann (1996).

The most provocative use of the idea that branding has become the dominant mode of social and political activism is the argument developed by Olivier Roy (*Le Monde Diplomatique* September 2004) with regard to al-Qaida. He disputes the common assumption that there is a recognisable, bounded organisation called al-Qaida, and says that it may be more helpful to think of it as a franchise operation, in which franchisees are, as it were, licensed to make use of the name al-Qaida for their own local operations. Both sides acknowledge the prestige conferred by the use of a name with such a high level of global recognition, but acknowledge also that this creates an obligation to protect the reputation of the brand (*l'image de marque*). Considered next to this, my own suggestion that the providers of Islamic financial products in Britain are developing “a brand called Islam” looks less controversial.

The consumer model removes from government any right to make judgements about which expressed needs and wants are legitimate, because the process of responding to consumer demand is an a-moral one. Within the consumer model, the citizen/consumer is powerful so long as he has sufficient money to compel a response from the market, but vulnerable to declining economic fortunes. The most negative aspect of these developments is that poor Muslims will become more, not

less, marginalised by them. If integration is increasingly defined through consumption, then inability to consume may be seen as refusal to integrate.

The naive belief that Muslims living in council housing will move into owner occupation if only they are provided with *shari'a*-compliant mortgages seems to foreshadow this development. The Council of Mortgage Lenders (2001 p.4) stated that “home ownership among British Muslims is relatively low as compared to other communities” and that “the main reason for this low ownership is the non-availability of Sharia’a [sic] compliant mortgages”. Both of these assertions are questionable. We have seen that home ownership among Pakistanis is actually higher than among the majority population. Treating Muslims as a single group, without breaking them down according to socio-economic status, level of education and length of time in Britain, cannot yield any useful data on reasons for lower home ownership among those groups for whom it is in fact the case. The statement that the main reason for not buying houses is the lack of Islamically acceptable loans seems to be nothing more than an assumption based on an essentialist view of cultural factors. Indeed, it is undermined by the Council’s own statement later in the paper (ibid. p.10) that “for a significant number of the potential target market the initial cost will need to be mitigated”, which constitutes a tacit recognition that it is lack of money which is the main obstacle to home ownership for many Muslims.

The detailed analysis of data from the 2001 census undertaken by Serena Hussain (preliminary report 2004) indicates that 51% of Muslims are owner occupiers, compared to 69% of the general population. As regards mortgages, 33% of all

Muslim households have a mortgage over their property, compared with 39% of the general population (Sellick 2004). However, two-thirds of Muslims who are owner occupiers are paying off a loan for the property, compared to only half of all home owners (Hussain op.cit.). (The fact that Muslims are concentrated in lower age groups, and so are less likely to have had time to complete paying off a loan, must account for a large part of this difference.) So, although the figures support the view that Muslims have a lower rate of home ownership than the general population, they do not support the view that Muslims generally are reluctant to take out conventional mortgages. The census figures also indicate that property owned by Muslims is more likely to be of poor quality. Of all groups, Muslims have the highest incidence of over-crowding, occupy the largest proportion of homes without central heating, and are the most likely to be living in terraced housing, which in most areas of the country is considered the least desirable. These figures cover all forms of housing tenure, not just owner occupation, but support an overall picture of inability, rather than unwillingness, to move to superior accommodation.

Incidentally, the report by the Council of Mortgage Lenders (2001 p.4) which quoted a report by Datamonitor on the number of Muslims earning over £30,000 per annum, also cited figures from that report to the effect that 182,000 of these high-earning Muslims had savings accounts and 141,000 held ISAs or PEPs. Since savings accounts, of which the commonest ISAs are a special tax-free variety, involve *riba*, this might have led the CML to rethink their assumption that this group of people had such a horror of bank interest that they were only delaying buying a house until a *riba* free variety of home loan was available. The authors of this report do not seem

to have had sufficient knowledge of the Islamic financial tradition to draw this conclusion.

The stark economic reality facing British Muslims was dramatised in a memorable image in an article in *Q-News* (29.7.94) headed “Magdalene Bridge”. This title refers to a bridge in Oxford which is regarded locally as forming the boundary between the student- and tourist-frequented city centre and the relatively poor eastern sector of the city, of which the main artery is Cowley Road. The local inhabitants on the far side of the bridge include a large Pakistani community (studied by Shaw 1988) and also a Bangladeshi one. The article contrasted a group of Muslim students praying on the lawn of New College after returning from their final examinations with the local young Muslims in Cowley Road, poorly educated and often unemployed. The writer, Munib Chelebi, argued that the survival of Islam in Britain depended on young Muslims working hard at school and passing exams. Career ambition was required by loyalty to their faith. “For us”, he concluded bluntly, “there is never an alternative to success”.

This article captured anecdotally the polarisation of educational and employment achievement among British Muslims, ten years before the hard statistics emerged to prove its existence (Hussain 2004). If present trends are not reversed, the two sides of Magdalene Bridge will house, respectively, a generation of Muslim professionals whose every desire for financial products tailored to satisfy the most demanding interpretations of *shari’a* will be satisfied by an eager market, and a generation of unemployed and council-housed youth who cannot obtain satisfactory housing by

any means at all, *halal* or otherwise. Reliance on consumer pressure cannot solve the problems of the impoverished and seriously disadvantaged.

Why is the present government keen to promote Islamic products?

The “third way” economic philosophy of the present Labour government fits well with many aspects of Islamic economic thought. Indeed, Islamic economists often present the latter as being itself a “third way” between capitalism and socialism.

In its simplest terms, the “third way” of New Labour rejects both the unfettered free market promoted during the Thatcher period and the mass nationalisations and state planning of Labour’s own past. It accepts that market forces should be allowed to operate essentially without restriction, but that government should act to modify their effects when these would produce seriously undesirable social outcomes. The Islamic tradition, for its part, rejects both state socialism and untrammelled individual avarice. At its heart is an ideal type of the pious merchant, working diligently and honestly to maximise his own profits yet abstaining from all forms of exploitation of the more vulnerable, benefiting the wider community both through his business activities and his philanthropy. It is not too far-fetched a comparison to see this as the ideal also of the present British government.

Will Hutton, one of the major theorists of New Labour, was in his most recent work (2002 p. 312) considerably exercised about the failings of conventional British banking. In his view, British banks have neglected long-term nurturing of business in favour of fast returns, being too ready to cut off credit to businesses experiencing

difficulties and leave them to go under while they chase the next short-term profit. In contrast, he cites favourably the German tradition of “relationship banking”. He believes that German banks, partly because of the federal nature of the state which encourages strong ties between companies in the same region, identify their own fortunes with those of their customers and seek to support businesses in the long term, taking an interest in their activities and being ready to offer help and advice when they go through difficult times.

This immediately suggests the relationship between financier and entrepreneur in the *mudaraba* model. As we have seen, this form of business finance, which most theorists of Islamic finance see as the most truly Islamic, has been viewed with disfavour by most banks and has not experienced anything like as much development in modern times as *murabaha* and *ijara* models. The main reason for this is the perception that there is no incentive for the entrepreneur to avoid losses and maximise his profits. The solution to this difficulty is surely for the bank to take a close and supportive interest in his business activities, rather than merely handing over the money and taking no further interest until he defaults on repayment, which is the dominant model among British banks at present. There is no evidence to date that *mudaraba* has attracted the attention of the present government in the same way as have *murabaha* and *ijara* forms of home purchase loan, but I venture to suggest that if some Muslim entrepreneur presented such a scheme to its presiding theoreticians, they would be likely to be enthusiastic about it, particularly if taken in conjunction with plans for the economic regeneration of deprived areas with large Muslim populations.

The period over which the rapid developments in Islamic finance charted by this thesis have taken place was one when relations between British Muslims and their government were very strained. It included the preparation, execution and violent aftermath of a war with Iraq which was bitterly opposed by the majority of Muslims and the introduction of intensely controversial measures to permit the detention without trial of foreign nationals suspected of terrorism. More recently the government has attempted to extend these measures to British citizens, which will in practice mean mostly British Muslims. The government desperately needed to find something it could do which would be popular with its Muslim voters and modify the widespread perception amongst them that it was hostile to Islam. The encouragement of Islamic home loans, in addition to furthering certain specific policy aims (notably encouraging tenants of social housing to move into owner-occupation) was very useful for this purpose. It hardly cost anything (the Treasury working party predicted that the abolition of double stamp duty would be revenue-neutral) and received a great deal of positive media coverage.

Warde (2000 pp. 105-106) writes that “at a time of Islamic reawakening, the toleration, if not the promotion, of Islamic finance is for most governments a low-cost, low-risk (insofar as the details of legislation are left for experts to work out) proposition”. He is referring to the governments of Muslim-majority countries, but the same could be said of the present British government. The summary of its planned legislation read out by the Queen immediately after it was re-elected in May 2005 included a reference to removing more obstacles to the introduction of *shari’a* compliant finance. Alongside, of course, a series of measures intended to combat a perceived threat from Islamist terrorism.

New balances of power

The active involvement of both government and commercial organisations in promoting so-called *shari'a*-compliant products is creating new balances of power. Zubaida's (2003) account of the historical development of Islamic law demonstrates that it has always taken place within a relationship with the political powers of the day. There has never been a pure form of *fiqh* which existed in a scholarly vacuum, untainted by the pressures of the world. The processes which are taking place at the present time within the financial sector of Islamic law are thus located firmly within a long historical tradition of negotiation with power.

The Muslim Council of Britain has achieved a status and authority which would be questioned by many Muslims, because of its close relationship with government. The government needs the endorsement of an apparently representative Muslim organisation to confer legitimacy on its policies in so far as they concern Muslims, while the MCB in turn uses the fact that the government consults it as proof of its representative status, as a sign that it is not just another group which has a grandiose name but which does not in fact represent anyone but itself (of which there are many amongst the Muslims of Britain). The negotiations over the removal of obstacles to the promotion of Islamic financial products, notably the abolition of the double stamp duty requirement, demonstrated this process of mutual endorsement at work. All parties concerned in these negotiations were able to present the outcome, the abolition of double stamp duty, as a great achievement for themselves.

The *'ulama* who sit on the Shari'a Advisory Committees of banks have a role of crucial importance, because the customers are heavily dependent on their advice. It is notable that the same names recur on the committees of different companies. One would imagine that they are chosen at least partly because their recommendations are congenial. The banks of course say that they are selected because of their eminence and the respect they command, but these factors are not mutually exclusive. The more banks who choose them as advisers, the more eminent and respected they become, and the more congenial their advice is, the more banks are likely to choose them. It is a circular process. This is a subject on which further research needs to be done. How independent are these committees really, and how are they selected?

Banks are now becoming key players in the development of Islamic thought. They are, in effect, issuing their own *fatawa* (or fatwas, in "Islamic English").

Technically, no *fatwa* is binding on any Muslim, it is only a legal opinion likely to be followed by a believer who has developed a respect for the particular scholar who issued it. In practice, historically, any individual Muslim would be likely to encounter only a very limited number of scholars and range of opinions, and social pressures produced conformity within certain communities. In the modern globalised world of the cyber-*ummah*, the number of opinions in circulation is very great and the freedom to pick and choose among them also great. Related to this is the decreasing importance of differences between the traditional schools of Islamic jurisprudence. Many Muslims do not understand the differences anyway, and some thinkers who do nonetheless argue explicitly that in a diaspora situation it is acceptable to refer to any of them.

It would though be a mistake to assume, as is often done, that this is producing an entirely empowered *croyant-consommateur*. (I have borrowed this phrase from Cesari (1994 p.12) because it alliterates so nicely in French.) The power of advertising comes into play. Some opinions can afford much more exposure than others. Some thinkers are much more popular with Western publishing houses than others. When a multi-national bank such as HSBC joins forces with a group of carefully selected Islamic scholars, the combination of vast financial resources and respected scholarship creates a super-charged form of *fiqh* which isolated dissident voices will not be able seriously to challenge. The banks' own interests lead them to promote certain interpretations of tradition, which may then become accepted by the wider population as simply uncontroversial expressions of beliefs held by all Muslims.

Notably, once they have taken the decision to promote non-interest based forms of loan, it is not in the interests of the banks for liberal interpretations of the restrictions on *riba* to circulate. The best known example of the latter tendency is the so-called "Qaradawi *fatwa*", that is the opinion issued in 1999 by the European Council for Fatwa and Research, whose president is Yusuf al-Qaradawi (see Caeiro 2004 for a discussion), which took the view that it is permissible for Muslims in Europe to take out interest-based home loans. This removes any justification for going to extra inconvenience and possibly expense to borrow by supposedly more *shari'a* compliant means. In the same way, the *halal* meat industry would not have flourished as it did if there had been any widespread acceptance that in Britain it was permissible to eat non-*halal* meat. The publicity given to more restrictive views on

riba by the banks in their own interest will inadvertently give the non-Muslim public the impression that all Muslims think in this way.

The “luggage” model of culture

This thesis is deeply influenced by Baumann’s (1996) study of Southall, which demonstrated that “culture” is something created in people’s daily interaction with each other, not a metaphorical piece of luggage to be carried around. The assumption that cultural groups are bounded and clearly delineated from each other is partly a result of the prominence in studying migrant groups of anthropologists, who have tended to bring a disciplinary paradigm developed for studying social groups on Pacific islands or in remote desert regions to research on European cities. For example, Kalra (2000) criticises Werbner’s work on Pakistanis in Manchester (1990; 2002) for treating them as an unrealistically bounded group.

Baumann correctly observes (op.cit. p.132) that some of the most sophisticated understandings of the fluidity of identities come from unsophisticated people. That is, not from academics or politicians, who sometimes struggle to keep up with the highly nuanced sensitivities of “ordinary people” to issues of identity. I would argue that the “luggage” model of culture, which assumes that it is bounded and finite, has led successive British governments into political error.

Policy formers may recognise that identity is expressed through consumption, yet still see no problem in encouraging a consumer model for satisfying the requirements of cultural identity, because they believe that those requirements are clearly defined

and limited. Their thought process appears to run as follows: “The Quran forbids the payment of bank interest. Therefore Muslims do not pay interest. In Britain the only way to borrow money to buy a house is to take out a loan on which one is required to pay interest. Therefore Muslims do not buy houses. This is bad, because we as a nation regard home ownership as extremely important, and we as a government wish to help everyone to buy their own home. Therefore we must introduce house purchase loans which are not based on interest. Then Muslims will buy houses. This will make them happy, because they own a house, it will make the rest of the population happy, because the Muslims will be fully integrated into British society, and it will make us as a government happy, because the Muslims will vote for us in the next election.” There is no recognition in this reasoning of the hard economic factors which prevent some Muslims from buying houses, of the diversity of Islamic thought on the issue of *riba* or of the complexity of the relationship of Muslims to Islamic tradition. In particular it does not recognise the way the government’s intervention becomes itself a factor in the development of Islamic thought, by influencing the balance of power between different opinions.

In reality, the abolition of double stamp duty and other forms of encouragement of Islamic financial products have not satisfied Muslim demands once and for all, they have set off a dynamic process of innovation and development and new demands, which will continue indefinitely, because, as Baumann has so clearly recognised, this is the nature of “culture”. I do not wish to imply that this is a bad thing, quite the contrary. Nor do I wish to lend support to those who argue that if “we” concede anything to Muslims, there will never be an end to it, and “they” will continue their demands until they have destroyed British culture (not least because such an

argument rests on exactly the same fallacious model of culture, applied here to a supposed British variety). I am merely saying that the present government will not be able to control the process which has begun, and neither will its successors. They have taken steps to encourage Islamic financial products in the pursuit of certain goals for the country and of their own political advantage, but some of the outcomes of this process may be unexpected and perhaps to some people undesirable. Human creativity is ceaseless and can never be controlled or fully predicted. The model of “culture” which sees it as bounded, finite and fixed denies the deepest realities of human nature and is profoundly mistaken.

Convergence with other religious and ethical traditions

Islamic financial products are showing some convergence with other forms of “ethical” economic behaviour. Rodney Wilson (2003) has discussed the ways in which Islamic banks and non-Muslim banks which claim to be “ethical” can learn from each other, using the Co-operative Bank as an example. He criticises Islamic banks for putting the emphasis on the eminence of their *shari’a* advisers rather than “the moral teaching that governs Islamic finance”. Arguably, there is no reason why the banks should concern themselves with the wider moral reasons for the Islamic way of doing things, they are only obliged to satisfy themselves that their activities conform to religious requirements, which they do by appointing eminent advisers and then heeding what they say. The appeal to “ethics” is not strictly speaking the same as a technical observance of *shari’a*, as Wilson acknowledges later in this article. It is more in tune with the habits of secular shoppers. It seems likely that if and when British banks attempt to widen the customer base for Islamic products to

non-Muslims, they will develop and promote this “ethical” dimension, which will subtly change the justification for choosing these products.

A vision of the possible future is offered by a financial adviser quoted (*Daily Telegraph* 22.5.04) as saying that “it would be useful for investors if there were a recognised industry standard on what is or isn’t ethical”. This raises the somewhat startling prospect of distinguished scholars of Islam and Christianity being asked to join a working party to hammer out an agreement on a common standard of ethics in order to make life easier for the financial services industry. Surely the consciences of individual investors cannot be satisfied by effectively attaching a label saying “ethical” to a product in the same way as manufacturers of aerosols stick on a sign saying “CFC free”. On the other hand, the acknowledgement of approval by a *shari’a* advisory committee as the only reassurance the Muslim consumer needs is in practice just such a label, and it is not too far-fetched to imagine that this stamp of approval might one day be accepted by non-Muslims also as conferring “ethical” status.

Some Christian groups who seek to avoid the damaging social effects of conventional lending practices are reportedly taking an interest in Islamic products (*Financial Times* 12.4.04). The CEO of Amanah Finance in the days before HSBC launched this division in the UK was quoted (*Guardian* 27.5.02) as saying that he believed Islamic finance had appeal “for the mainstream” because of its “ethical basis”. He went on to explain that this was because it was based on the “real” economy, not the world of financial speculation, thus implying both that Islamic

financial products are less risky than the conventional kind and that the financial markets are intrinsically unethical. Both of these claims are questionable, but likely to be accepted by Christians who share the aversion to financial matters which has characterised much of the history of their faith.

An interesting article in the US paper *Jewish Weekly* (5.11.99, reproduced on www.muslim-investor.com) suggested one possible line of convergence. It described the development of the Dow Jones Islamic Index, and said that its founder, Rushdi Siddiqui, was now “considering the creation of indices that would track companies in keeping with the moral codes of Orthodox Jews and Bible Belt Christians”. The article quoted Rabbi Arthur Hertzburg, professor of humanities at New York University, as saying that “such an index would likely filter out companies, like banks, that rely on interest, which is forbidden by the Bible”. This offers the possibility of Muslims and Orthodox Jews, usually in a hostile relationship because of political differences over Israel, combining their spending power to promote non-interest-bearing forms of banking. Even more intriguing is the thought of Christians being reminded that the Bible forbids interest, and challenged to act on the knowledge.

The “fair trade” movement, which has no alignment to any one religious tradition, is cited by Wilson (2003) as an example for Islamic product providers to emulate, by showing concern to improve the welfare of those in less developed countries rather than only for the technical lawfulness of the forms of trade. Ramadan (2004 p.173) also strongly urges Muslim involvement in the fair trade movement. If Islamic

organisations feel inclined to follow this advice (the success which the charity Islamic Relief has achieved through copying the Oxfam model is perhaps a pointer to what it might make possible) then this would lead to a quite new kind of development of the Islamic avoidance of exploitation in trade which lies behind the prohibition of *riba*.

A recent large-scale study of consumer attitudes to “ethical” aspects of shopping (reported in the *Daily Telegraph* 27.01.05) found that a large majority of consumers were indifferent to them and did not make any conscious effort to choose products from companies with strong records of ethical behaviour, such as avoiding the use of child labour, even though when they were specifically asked if, for example, they objected to the use of child labour, the great majority of consumers said that they did find it objectionable. The exception to this indifference was when the “ethical” claims were promoted as the main selling point of the product, that is, they formed its “brand identity”. The Fair Trade brand was cited as an example of this strategy. These products attracted consumers who were prepared to go out of their way to buy them and were very loyal to them, resulting in strong and sustained sales. These “ethical” brands are, then, less vulnerable than mainstream brands to the fickleness of consumers, but, on the other hand, they are very vulnerable to any revelations of less than perfect conformity with the claims of exemplary behaviour which they make. These findings clearly have some relevance for Islamic financial products.

These alliances and mutual influences are shaping the development of Islamic finance and undermine any attempt to present it as simply a self-contained imported

tradition. There is a danger that convergence with other traditions will marginalise those who, for example, feel uncomfortable about forming close alliances with Christians. It may also subtly shift the consensus on what is *haram*. For example, a Catholic ethical investment fund called Ave Maria Mutual Funds (*Financial Times* 12.4.04) will not invest in any pharmaceuticals companies which they regard as benefiting from abortion. An absolute ban on abortion is not part of Islamic tradition, but as ethical funds inspired by different religious traditions move closer to each other, this policy may come to be accepted by Islamic funds also.

More politically problematic is the issue of whether or not oil companies are acceptable. This was cited by the financial adviser who was quoted above calling for an industry standard as a particularly unclear area. The F & C Stewardship fund, which claims to be the first UK ethical fund and whose success is sometimes cited as proof that there is no conflict between principle and profit (e.g. *Manchester Evening News* 5.7.04), avoids investing in oil companies, but this is not a universal characteristic of ethical investment programmes. One manager for the F & C Stewardship fund, who won an industry award for his outstanding results, cited the performance of oil stocks as an important factor in determining whether his ethical fund would out- or under-perform the general market (*Daily Telegraph* 26.03.05). That is, oil stocks are an important element of general investment funds, and during a period when they are performing poorly it is relatively easy for a fund which excludes them to perform well in comparison.

For non-Muslim ethical funds the main reason to avoid oil companies is concern about their environmental impact, but it is all too evident that in the Muslim context the question of whether or not to invest in oil stocks is politically extremely controversial. There is a widespread resentment of the vast wealth, authoritarianism and pro-American political alignment of the rulers of some of the oil states, especially Saudi Arabia, among the people of many poorer Muslim countries. This resentment is shared by some more comfortably situated British Muslims. Yet the wealth of the oil states is definitely a prime reason for the interest of conventional banks in moving into the Islamic sector, and towards the end of the period with which this study deals the price of oil was at a record high (*Financial Times* 12.10.04). The question of oil stocks may be an obstacle to further convergence between Muslim and general ethical investment funds. It is also likely to be a fault line along which a fissure opens up between the kind of Islamic finance practised by large banks and other institutions who are only really interested in modifying their conventional products sufficiently to attract wealthy Muslims from around the world, and that promoted by “social entrepreneurs” with a local focus and a more radical vision of shaking global financial structures.

My own prediction is that such a division will be the future of Islamic finance. Increasingly, the real choice will not be between Islamic and non-Islamic products but between, on the one hand, local organisations whose focus is on helping the community, whether that is conceived in religious or merely neighbourhood terms, and who are developing ties with non-Muslim campaigns with similar aims, and on the other hand, large multi-national companies who are primarily interested in attracting wealthy Muslims regardless of where their home base may be, and whose

products are distinguishable from those conventionally offered by such companies only by the most formal and technical means. At the international level, the division will be between activists who assimilate the fight against *riba* to the campaign to release developing countries from their burden of un-repayable debt, and financiers who see the accommodation of Islamic tradition as a way of removing one obstacle to the incorporation of the Muslim world into the globalised economy.

This division is foreshadowed in Tariq Ramadan's most recent (2004) piece of writing on the future of European Islam. He unequivocally identifies *riba* with the globalised economic system which he believes to cause countless deaths from poverty in the developing world. Muslims in the West, or, as he often prefers to say, the North, that is the developed world, cannot merely tinker with the system to produce products which are superficially *riba*-free, they must reject it root and branch, because "constant ad hoc solutions" only "affirm the dominant system" (op.cit. p. 191). He identifies co-operation with non-Muslims also working for a fairer economic system as the truly Islamic solution, and is particularly scornful of those who still rely on the distinction between *dar al-islam* and *dar al-harb*. The new world order has created an *alam al-harb*, a world of war, from which none of us can escape (ibid. p.199). A globalised economy requires a globalised Islamic response.

The influence of culture on economic behaviour

Firstly, there is an intrinsic absurdity about discussing the "culture" of immigrants as if it were separate from economic factors when the reason these immigrants came to Britain in the first place was to make money. "Multi-cultural" Britain was not created

as a project to provide liberal Christians with an interesting inter-faith experience, it was generated by historical and global economic forces of vast complexity. Jelen (1991 p. 38) makes the same point in relation to France. The Maghrebin entrepreneurs he studied were not interested in the abstract debates about the nature of French civilisation for which immigration provided Parisian intellectuals with a pretext, they just wanted to make money. One of them (ibid. p. 35) made a comparison with the Huguenots. France suffered a great economic loss in the seventeenth century by expelling Protestant artisans and traders who subsequently enriched the countries which took them in; it must not make the same mistake with North Africans. Migrants are prepared to endure enormous emotional hardship in order to make better financial provision for their families. To assert that they and their descendants are driven primarily by a desire to earn money is not cynical or hostile, it is on the contrary an affirmation of our common humanity.

The assumption that Muslim financial behaviour is a form of culture which has been imported unchanged from South Asia cannot explain the observation that the creation of Islamic financial products is a second-generation phenomenon. There is sadly very little written on the observance of the prohibition of *riba* by the first generation of immigrants, but this absence is in itself significant. The notable exception to this is Lewis's (1994) observation that some Bradford Mirpuris refused to pray behind an imam who held a conventional mortgage, but the frequency with which this is quoted is an indication of the absence of other similar observations. *Zakat* attracted the attention of the ethnographers of the first generation, but avoidance of conventional loans does not seem to have been sufficiently common to interest them. This

suggests that the growing desire to avoid *riba* among the second generation is a response to life in Britain.

The credit card culture which young people today take for granted was not part of the experience of their parents, of any ethnic origin. It has been reported (*Daily Telegraph* 15.01.05) that Britons possess five times as many credit cards as the European average, and together owe £56 billion on them. This does not include the £3 billion owed on store cards and £5 billion on mail order credit. The total amount of consumer debt outstanding in Britain is thus about the same as the annual budget of the National Health Service, which was around £63 billion in 2003-04 (*Guardian* 12.10.04). So keen are the banks to foist credit cards on the population that one over-zealous representative was even recorded trying to persuade homeless people to apply for them (*Big Issue* 8.3.04). This situation, where it is normal and socially acceptable to be in considerable debt, has forced young Muslims to consider its implications for their faith.

Impressionistically, it seems that white converts to Islam are over-represented among all forms of Islamic activism, including the financial, but the significance of this may be less than that of the fact that British-born Muslims in some ways think more like converts than like their parents. That is to say, they go to written sources and arrive at conclusions for themselves, rather than simply doing what they were told to do as children.

There is a strong tendency to assume that *shari'a*-compliant mortgages must be cheaper than conventional ones because Islam is in some way kinder, nicer, easier than the secular world. We have seen that some Muslims are genuinely outraged by the fact that the Bank of Kuwait's home loans are more expensive than the ordinary kind, and cannot understand this in any other terms than that the bank is attempting to exploit them. This indicates the main point of vulnerability of Islamic financial products. If Islam is the "brand identity", then any suspicion that the products are in any way not truly Islamic will be much more damaging than if they had never been promoted in this way. The risks of any significant Islamic thinker pronouncing a product to be in some way technically not in accordance with *shari'a* are obvious. Less apparent but also important is the risk of being judged to be in some sense un-Islamic because the product seems to be targeted at the wealthy and unhelpful to the poor.

Leila Ahmad (1992 p.229) found that many of the women she interviewed had a firm conviction that Islamic prescriptions for the treatment of women must be better than non-Islamic ones, even though they were often ignorant of what the Quran actually says on the subject, because their belief in the moral superiority of Islam was unshakeable. Some of the comment on Islamic financial products is reminiscent of this. The argument tends to become circular – Islam is the most ethical code of behaviour, therefore anything nominally Islamic which seems to be less ethically satisfying than the secular alternative cannot be truly Islamic. Caeiro (2004 p.360) points out that there is a "classical argument that any harm arising from Islam cannot but be the result of some misunderstanding".

To some extent this tendency obscures the debate about whether people are prepared to pay more for the sake of their principles. There is a near-universal tendency to resolve cognitive dissonance on this subject by interpreting principles in the way most convenient for the thinker. This is not a crude Marxist analysis, because the evidence does not support the most reductionist version of the “base and superstructure” approach. There is no doubt that some people will pay more for an Islamic product than a non-Islamic one. There is rather a subtle long-term process of accommodation of principle to economic reality. In this regard, Heilbroner (1991 p.145) does well to remind us that Marx’s theoretical approach is called “dialectical materialism”, not just “materialism”, precisely because it recognises that economic circumstances and human cognitive processes are in constant interaction.

The phenomenon of the rejection of bank interest by some Muslims provides a useful test case for the theory of Robert Frank, whose 1988 work *Passions within reason* is regarded as a seminal attempt to theorise the role of emotion within economic behaviour, and move away from the arid conceptualisation of mathematically calculated self-interest which had previously dominated economic theory. In Britain today, the Muslim customer is presented with a straightforward choice between putting her savings in a bank account which pays interest and putting them in one which does not. Perhaps straightforward is the wrong word; she normally has to put a lot more effort into finding an account from which she will not profit than one from which she will. The fact that a significant number of customers will choose the non-interest-bearing account, or will write to a bank begging them not to add interest to a conventional account, or will take the money under duress and then give it to charity, is simply incomprehensible to economists who have been trained to believe that

people will always pursue strategies which directly maximise their income. In a climate of opinion where considerable prejudice against Muslims exists, it is dangerously easy to dismiss the problem with a pronouncement that Muslims are simply not rational, that their cognitive processes have been so befuddled by their obscurantist faith that they cannot even recognise their own self-interest.

Frank cites a mass of research which has found that people will frequently forego financial advantage because of an emotional commitment to fairness in the division of resources, sympathy for a person in distress, or fear of retaliation from the people of whom they have taken advantage. His argument is that such behaviour is in fact in the long-term self-interest of the individual. Becoming known as a person who is trustworthy increases the likelihood of being chosen as a partner in business, marriage and many other social arrangements, and therefore actually leads to greater material success in the long run. Conversely, acquiring a reputation as someone who is constantly out for himself and will exploit others at every opportunity causes one to be socially shunned and leads to poor economic outcomes. It has been shown that scores on tests of altruistic personality traits are positively correlated with socio-economic status (Frank 1988 p.235), though of course this does not prove the direction of causation. The really valuable contribution of Frank's work is that it forms a bridge between the idealistic belief that religious faith promotes selfless behaviour, and that there is no more to the rejection of bank interest than that, and the cynical view that there must always be an immediate benefit in this behaviour somewhere, and if we cannot immediately perceive it we are just not looking hard enough. According to this theory, behaviour which is self-denying in the short term actually promotes self-interest in the long term.

It seems then that the approval and respect of one's social reference group are important not only psychologically, but for economic success also. This must be particularly true of minority groups who are discriminated against by the wider society. To sacrifice some immediate gain from receiving bank interest, or from a lottery grant, for the sake of retaining the respect of the wider Muslim community may in fact be an act of self-interest, if it ensures the continued help and support of that community, in business as well as in more personal matters.

Walvin (1997 p.3) has argued in the case of the Society of Friends that "the crucial link is not between Quaker business and a particular theology, so much as Quaker membership of a powerful organisation and the culture it created". That is, the strong internal bonds created by sharing beliefs which differed significantly from those of the wider society were partly responsible for the notable business success of Quakers – in fact, they were practising "networking" long before the term became current in business jargon. One possible extrapolation from this might be that in such cases the content of the beliefs is almost irrelevant, except in so far as the more strongly differentiated they are from dominant social values the stronger the internal bonding effect will be. This argument could be applied to the situation of British Muslims. Having principled objections to mortgages is so at odds with the generality of British life that it sets people apart and generates a culture of dissent, within which internal loyalties operate.

It is interesting to note that some of the most prominent British banks were originally founded by Quaker families – notably Barclays and Lloyds. Their adherence to minority religious views did not prevent their becoming highly successful. Perhaps there is some inspiration here for what Muslim financial institutions could eventually achieve. It is, at the least, thought-provoking to reflect on the historical vicissitudes which have led these banks from family firms promoting the strict ethics of a religious minority in their business activities, to household names with no religious associations, to giant corporations seeking ways to facilitate the financial ethics of an immigrant religious minority.

One writer (Ridley 1996 p.99) has pointed out that there is a difference between academic disciplines in attitude to apparently altruistic behaviour. Economists have been trained in the model of individuals acting self-interestedly, and so find altruism an anomaly which needs to be explained. Anthropologists and social scientists, on the other hand, work at the level of society and not of the individual, so they are accustomed to thinking of co-operative behaviour as a normal way of maintaining social harmony. To them, aggressively selfish behaviour seems more of an anomaly. I believe that these differences in academic models have been important in work on Islamic finance, which has been studied from so many different disciplinary standpoints. Writing undertaken by business and finance specialists has often been impatient with the notion of voluntarily renouncing interest and too quick to see all forms of Islamic finance as cynical attempts to achieve the same degree of profit by a different route. Religious Studies scholars, on the other hand, are frequently too ready to believe rhetoric about the good of the *ummah*, too idealistic about the motivation of customers for Islamic products and not sceptical enough about devices

used to make products formally acceptable. Furthermore, political and sociological models which are concerned with “identity” or “culture” have tended to be zero-sum, that is, the assertion of one person’s identity detracts from someone else’s promotion of theirs, whereas business thinking often places a high value on “synergy”, that is, the extra creativity and added value produced by the interaction of elements.

A more general argument about the inadequacy of traditional academic disciplines to the study of political Islam at the present time has been developed in detail by Allievi (in Marechal et al 2003). Given the importance of developing a more sensitive understanding of the various manifestations of Islamism, this is a problem which the disciplines which have traditionally concerned themselves with Islam urgently need to address.

Heilbroner (1991) comments that Adam Smith’s model of people acting always and only in terms of their immediate self-interest has historically dominated economic thinking but may no longer be appropriate for a post-scarcity society. Inglehart (1997 and many other books) has developed this line of thought into a minor industry. The rather over-schematic opposition which his team has produced, between developed countries with post-materialist values and under-developed countries with materialist ones, can accommodate immigrant minorities only with some difficulty, especially those of the second generation. At worst it could suggest that South Asians in Britain are some sort of alien Third World element with values more materialist than those of the wider society. But the prediction that British-born Muslims will be less materialist than their South Asian born parents does seem to explain some of the

generational differences in behaviour. Inglehart's characterisation of societies as "predominantly" of one religious tradition, Protestant in the case of Britain, could imply that non-Protestant minorities in Britain are being assimilated to Protestantism, that is, that there is a long-term tendency for Muslims, among others, to become more like the Church of England, Church of Scotland or Welsh Methodists. Proving or disproving the developments thus implied would require specific research.

Some Muslim writers, such as Naqvi (1981), have produced an interpretation of Weber's work on *The Protestant Ethic and the Spirit of Capitalism* which puts it in a whole new light. Accepting at face value the notion that the dominant capitalist culture of the West was produced by Protestantism, Naqvi argues that this demonstrates the undesirability of Protestantism, or of Christianity generally, and the superiority of Islam. Christianity has produced a bad economic system, Islam will produce a good economic system. This crude cultural reductionism is only the obverse of some Christian writing on why Islamic societies have so many problems. It is a line of argument which should be avoided altogether in a serious consideration of Islamic finance. In fact, of course, Weber's book is full of hedging and qualification, and in the end suggests nothing more definite than a general affinity of certain religious traditions for certain forms of economic behaviour. At this tentative level it is legitimate to explore, for example, the positive value given in Muslim tradition to trade and contract.

I believe that Bourdieu's concept of "habitus" has some value in this context. This term summarises a sophisticated neo-Marxist theory that cultural habits are produced

by objective economic circumstances but can survive independently for some time after those circumstances have changed. This means that, for example, migrants may continue to practise forms of behaviour which were given a positive valuation in their previous society, even when these are maladaptive in their new situation. In the long run, however, changes in economic circumstances will produce changes in behaviour. The value of Bourdieu's theory is that it acknowledges the primacy of economic factors in determining behaviour, yet also allows some independent role for culture. It seems to explain the process of adaptation of migrants to a new country better than any of the rival approaches. Bourdieu (1977 [1972]) in fact originally developed this theoretical approach in relation to Algerian Kabyle migrants from rural villages to apartments in Algiers, and these Kabyles displaced from village to city were the "ideal type" of the habitus model.

Religion in modernity

Some people are still debating whether Islam is compatible with modernity. I hope that this thesis has demonstrated that this question is badly put. Islam has no choice but to be compatible with modernity, like any other religion that wants to survive. The issue is how precisely a religious tradition is expressed and developed in an economically advanced society (which is what modernity means in practice).

The complex Islamic financial transactions which this thesis has examined are dependent on the latest computer software, on the transparency and accountability made possible by the auditing standards enforced in Britain, on the availability of highly educated personnel. They are, in fact, only made possible by modernity. In

Weberian terms, Islamic finance in Britain in the 21st century is a bureaucratic and not a traditional activity.

It is endlessly asserted that in Britain, or Europe, or “the West”, or Christendom, or however else “we” are defined in opposition to the Muslim “other”, religion has been separated from public life and relegated to the private sphere, and that the rise of Islamic demands in the public sphere threatens this *status quo*. I would argue that this is simply not true. The relegation of religion to the private sphere was only ever an ideological project, not an accomplished fact. It is an axiom of classical liberalism, the political tradition which has been dominant in Western Europe for the last two hundred years. It is of course true that organised religion has less and less influence over public institutions, but it has never been entirely corralled into the field of personal and family relationships. As French writers are fond of reminding the British, the continued existence of the Church of England as an established church with intricate links to all elements of the constitutional settlement forms an awkward refutation of the argument that it is Muslims who are uniquely threatening the privatisation of religion. As recently as April 2005 the country’s leading experts on the constitution were not certain whether it was legal for a member of the royal family to marry in a civil ceremony. British Muslims themselves are well aware of this *non sequitur*.

In any case, the argument that it is possible to hold a religious faith sincerely and actively without it affecting one’s conduct in areas such as choice of employment and decisions about spending really cannot be sustained. It would be a rather strange

and impoverished faith which presented no face to the public world. It is in fact precisely in the areas of life which have both a public and a private face that religion becomes most relevant, whether in a positive or negative way. These interface areas are not governed purely by national law or by family custom, they require the citizen to choose what form of presentation of herself to make to the world.

Even if we accept that the appearance of Islamic financial activism is a second-generation phenomenon, it is tempting to explain it in terms of a desire on the part of British born Muslims to assert their “identity”. This is a catch-all term which explains nothing in purporting to explain everything. As Cesari (1994 pp.14-15) says, citing Levi-Strauss in support, identity is a pseudo-concept which scholars resort to when they cannot understand what is really going on. The question, she says, is not who someone is, but how they choose to present themselves to others, and why.

A blanket application of the notion of a search for identity cannot explain why some aspects of Islamic tradition are vigorously promoted while others are neglected. For example, there is little sign of a serious attempt by younger British Muslims to apply the traditional Islamic rules on inheritance, which have as much Quranic authority as the prohibition of *riba*. One reason for this is certainly that they are so disadvantageous to women as to be unacceptable to educated British-born women.

On the other hand, the concept of “group boundary maintenance” is worth pursuing. This derives from the French structuralist tradition of Durkheim and later Levi-

Strauss, and was developed in a particularly explicit form in the work of Mary Douglas. According to this view, the reinforcement of social categories and maintenance of social networks is the supreme end of religion. The most basic piece of social categorisation is that which divides people into “our group” and “the others”. The use of financial injunctions to enforce the insider/outsider distinction has a very long history. The Torah forbade Jews to practise usury amongst themselves but permitted them to lend at interest to non-Jews (Wilson 1996). In contemporary Britain the most important Islamic financial practice used to mark the boundary line of the group appears to be *zakat*. Legitimate questions about whether it is necessary to pay so much in charity when one is contributing largely to social welfare through taxation have not been raised to any great extent among British Muslims, because there is an unspoken understanding that the religiously prescribed payments made to fellow believers, whether at home or abroad, trace out the pattern of the *ummah*.

There is of course an unavoidable tension between the assertion that its teachings are applicable to all which is made by any religion which claims universal validity, and the desire to maintain adherence to certain ethical codes as a marker of a social group. The use of nominal adherence to a religion to define a social group is in this sense intrinsically problematic. It is possible that the prominence of the prohibition of bank interest as the defining feature of Islamic finance at the present time, to the relative exclusion of other concerns which were historically important, arises precisely because it is in such stark opposition to the dominant culture in Britain, where mortgages and interest rates are a national obsession. It is notable that the issue of *riba* has been far less discussed in France, for example, where home

ownership is less common and long-term renting does not mark one out as some kind of eccentric.

This relates to Walvin's argument, outlined above. This differs from a vague notion of "identity" in that it can be considered in a purely instrumental way. If the boundaries between Muslims and others become too blurred, it threatens both the sense of being obliged to help other Muslims simply because they are co-religionists, and the existence of a clearly defined market for Islamic products.

Robinson (in Clarke et al 1984) refers to the "parallel institutions" established by the first generation of immigrants. To counter the discrimination they faced from white-run institutions, together with difficulties of language and cultural comprehension, South Asian estate agents and solicitors appeared which dealt almost exclusively with the South Asian community. These still exist, but are far less relevant to the British-born generation who are at ease in the mainstream of British society. The disadvantage of this increased ease with dealing with white-run institutions is the reduction in specialist employment opportunities within the South Asian community.

Robinson (in Peach et al 1981) points out that while early migrants lived in lodging-houses run by people of the same origin as themselves, the money they paid for rent was retained within this close-knit community of migrants from the same region.

When they began to buy houses, the money they paid for them was usually given to white people. In the same way, money paid out by Muslims to the usual high street banks, solicitors and estate agents is money lost to the *ummah*. Arguably, therefore, the emergence of an Islamic financial sector represents a new kind of "parallel

institution” which can ensure that Muslim money is given to other Muslims. This argument is explicitly made by Ansar Finance. The extensive involvement of non-Muslims in the sector works against this, and may eventually become a source of dissatisfaction for Muslims.

The appearance of a distinctive Islamic financial market offers employment opportunities for Muslims which will be enhanced by the maintenance of its distinctiveness. It is reported from Pakistan (*Financial Times* 17.4.04) that there is an acute shortage of talented candidates for banking positions who possess both sound banking qualifications and a good knowledge of Islam. The former opposition between “traditional” careers, for which intensive study of *fiqh* was necessary, and “modern” ones, for which one would be well advised to avoid conspicuous religiosity and concentrate on science and mathematics, is being broken down as some ambitious young people see the advantages of combining the two. Naturally a country such as Britain where Muslims will always be a small minority will never offer the same opportunities, but with the increasing internationalisation of the labour market, especially in the field of finance where the product is intangible, young British Muslims are becoming more aware of the advantages of combining, for example, a training in accountancy up to the highest British standards, which command international respect, with a sound knowledge of Islamic tradition, which is portable throughout the Muslim world. To use the current jargon, a good knowledge of *fiqh* is a transferable skill.

From this perspective, the old concept of “integration” no longer seems so attractive. If it means becoming simply another candidate in the interview waiting-room,

indistinguishable from any other in a liberal polity which is determined to ignore skin colour or religious affiliation and look solely at diplomas, it is actually less advantageous than pursuing a career route in which membership of a minority group is itself one of the qualifications. That aspects of immigrant cultures could survive and grow sufficiently to create such opportunities seems never to have been predicted by early models of the likely social trajectories of the children of immigrants, which took for granted the complete dominance of the majority culture and its eventual extinguishing of dissident elements of minority traditions. It is difficult not to see in this a certain post-colonial arrogance, or at the very least a Eurocentric assumption that modernity was all on our side.

Secularisation

In my introduction I considered the debate about secularisation which has historically dominated the discipline of sociology of religion, noting that the appearance of Islamist movements constituted a challenge to the assumption of the declining importance of religion in the modern world which had previously prevailed in the literature. Some writers have responded to this challenge by deciding that the secularisation theory was simply wrong, seeing this as a cause for either lamentation or rejoicing according to their personal beliefs. More worryingly, some have protected the integrity of the theory by attacking the Muslims who present a challenge to it, regarding Muslim minorities as a cultural intrusion from the less developed world, who have not yet been sufficiently worked on by the forces of secularisation prevailing in Europe. Neither of these approaches are a satisfactory way of considering the current surge of interest in Islamic finance. The

developments which this thesis has examined cannot be adequately explained within the traditional secularisation paradigm.

To the rescue comes Daniele Hervieu-Léger (1993) with by far the most useful way of thinking about contemporary developments in religion. She notes (ibid. p. 24) that sociologists of religion have constructed their whole discipline on the foundation of the secularisation theory, and when it seemed to be challenged, either jettisoned the theory or avoided theoretical discussion altogether and took refuge in purely descriptive studies (which is a fair assessment of many studies of British Muslims). According to her, both these responses are mistaken, because the work on secularisation is needed to understand what is happening now (ibid. pp.8-9). Current religious phenomena are post-secularisation developments.

Hervieu-Léger conceptualises the process of secularisation as a disruption of the *lignée croyante*, or chain of religious memory, as the English translation of this book puts it. Modern societies are so fragmented and mobile that they have lost their collective memories. Religious belief and practice are no longer handed down from parent to child; the child of parents who have themselves ceased to practise their faith does not learn religion from them. Those who seek out meaningful religious experience in the post-secularisation world need to reconstruct the *lignée croyante*. One of the strengths of this work is that it makes very little reference to Islam; it is largely concerned with Roman Catholicism in France. It therefore has no connection with the exceptionalist approaches which treat Islam as somehow divorced from developments in other faith traditions.

A great deal of activity by young British Muslims fits this model of a self-conscious reconstruction of tradition. Many places on university degree courses in Islamic Studies and in Arabic are now taken not by the traditional non-Muslim student with one eye on a job in the Foreign Office, but by British-born Muslims wishing to learn about their own heritage, as they see it. At a less formal level also young Muslims are studying Arabic, or even the first language of their own parents, whose script they often cannot write. There are now Muslim-run package tours to Granada to explore the heritage of Islamic Spain. Since the majority of these Muslim students are of non-Arab origin, it could be argued that Arabic is not part of their cultural heritage at all, but as the language of the Quran it is part of their religious heritage. With particular reference to the area of Islamic finance, it is very noticeable that much of the information produced for the benefit of potential customers has an educational aspect. It does not assume that the customer is already familiar with the restrictions and prohibitions of the Islamic tradition and is merely seeking out products which conform to them. On the contrary, it assumes very little knowledge on the part of the customer and therefore attempts not just to offer them what they want, but to educate them in what they ought, as practising Muslims, to want.

A posting on the *Salaam* website (23.03.02) is typical. “Can anyone give me advice on what we can and cannot invest in as Muslims? Is there any source that I can look to in order to find sound advice?”. There have been several lively and contentious debates on this subject on this site, without any one resource emerging as an authoritative source of reliable advice. As one of the replies (26.03.05) to this posting said, “Islamic economics – or rather the adoption of Islamic economics into

the capitalist world market – is a fairly new discipline”, and this sufficiently explains the lack of authoritative consensus. The publicity material for the banks and brokers does not, though, present the matter in this way. It gives a brief summary of what is permitted and what is forbidden in the Islamic tradition, presented as unchanging since the time of the Prophet, and then claims that the products of this particular provider are uniquely fitted to satisfy these requirements. Education and marketing are inextricably combined.

Regional factors.

Ruthven (1990 p.1) describes the Muslim protestors “from Bradford and Dewsbury, Bolton and Macclesfield” who had come to London in May 1989 to demonstrate against Salman Rushdie’s book *The Satanic Verses* as looking out of place in the metropolis. They seemed “utterly foreign”. Furthermore, their traditional South Asian dress gave them, to his eyes, not only a foreign but a countrified air: “they seemed like men from the sticks, irredeemably provincial”. This was in keeping with the assumption of urban intellectuals that Muslim objections to the book were based on nothing more than an old-fashioned world-view. Correspondingly, when Ruthven attended a meeting in Bradford (ibid. p.132) he seems to have been surprised to find some white citizens of the town agreeing with the protestors, on the grounds that they found the book obscene and accordingly thought it should be suppressed.

These vignettes of the most famous political controversy involving Muslims in British history serve to illustrate the habitual difficulties experienced by the London-based intellectual elite in grasping the possibility that some of the most interesting

developments in their country may be taking place outside the capital. I like to think of this as the “can anything good come out of Galilee” syndrome. Geza Vermes (1973 chapter 2) clarifies this line of New Testament dialogue by explaining that at the time of Jesus the sophisticated metropolitans of Jerusalem regarded the inhabitants of the remote region of Galilee as ignorant peasants who spoke an incomprehensible dialect and were perpetually engaged in political sedition. The comparison with the attitude of contemporary Londoners to people from Yorkshire or Birmingham is irresistible.

We have seen that a large part of the current activity in the development of Islamic finance is taking place in Yorkshire and Lancashire. There exists a kind of regional marginalisation which cross-cuts the marginalisation due to race. The former mill towns of Yorkshire, the de-industrialised areas of Lancashire and Tyneside, all feel a collective resentment of London, which is perceived, whether accurately or not, as remote, arrogant, wealthy and running the country for its own benefit. The existence of such a sentiment is not susceptible to proof in strict academic terms, but everyone who has ever lived in one of these regions knows that it does exist. Of course, people of immigrant origin in these areas who are perceived to be in some way undesirable are often victims of racist abuse. When, though, they appear to be engaged in positive activities, they benefit from being embraced by a discourse of regional pride. A example of this from another sphere of endeavour was the response to the sporting achievements of Amir Khan, a young boxer from Bolton. Before his success at the Athens Olympics made him a national celebrity, he had already benefited from enthusiastic regional support (*Manchester Evening News* 5.7.04).

I have described how another rising star from Bolton, Sufyan Ismail, has benefited from the support of local Bolton enterprise agencies and the local press. On the other side of the Pennines, the attention to detail and accuracy in its reporting of stories involving Muslims which is forced on the *Yorkshire Post* (slogan: “Yorkshire’s national newspaper”) by the fact of having very large Muslim communities in its circulation area, noted in its coverage of Parsoli, is telling. The national press has on the whole been much less interested in the details of contemporary British Muslim life than the regional press.²

The fractured and contentious character of national culture was noted forty years ago by Raymond Williams in his landmark studies, *Culture and society 1780-1950* (1961) and *The long revolution* (1965). In these he describes how the dominant social class seeks to protect a version of national culture which it regards as the only legitimate one, a form of “high culture” which is reproduced through the universities and the government-funded broadcast media. This is contested on both class and regional grounds by the majority of the country’s citizens, who are engaged in a long struggle to have their own “culture” recognised as valid. Of course, the world has changed considerably since these books were written, and the existence of a “high culture” is much less clear today. Indeed, one of the central themes of the literature which conceptualises our present condition as “postmodern” is that the distinction between “high” and “popular” culture has completely collapsed, leaving only a

² One is reminded here of the fact that the collapse of the American company Enron was precipitated by a journalist for a regional newspaper in Texas who took the trouble to actually go through its accounts and found them riddled with alarming anomalies, at a time when the national financial press was content to believe Enron’s euphoric self-reporting (Wheen 2004 p. 284).

selection of cultural products to be consumed at random. (See Turner 1994 for an extended discussion of the literature on postmodernism and its relationship with the study of Islam.) My own emphasis on the emergence of “Islam as a brand” may at first sight appear to be saying the same thing. However, the postmodernists emphasise the essential playfulness of the process of interaction and selection of cultural products and tend to ignore the existence of real conflict between social groups which is expressed in cultural forms. At a time when certain kinds of Islamised identities are being expressed in ways which are very far from playful, this approach just will not do any longer.

It is remarkable that the work of Raymond Williams and his contemporary Richard Hoggart (cited in the introductory chapter) is never mentioned in the debates on the “culture” of immigrants. Yet their work serves the purpose, never of course envisaged by them, of illuminating the world which immigrants to Britain in the 1950s and 1960s entered, that of the white working-class in regions dominated by heavy industry. They were not entering the “high culture” in which Englishness is defined by reference to Shakespeare and Elgar. The neglect of the host community has made debates on “multi-culturalism” oddly one-sided. While the “culture” of the immigrants has been exhaustively studied, that of the white people alongside whom they lived and worked has not been described in anything like so detailed a way. What is opposed to the “culture” of immigrants is an under-theorised notion of “British culture”, treated as if it were itself non-conflictual. This vacuum is now being filled by the racist political parties who offer their essentialised and tendentious version of “British culture” to the white working-class communities who

are still waiting, nearly half a century after Williams, for their own “life-world” to be taken seriously by the country’s intellectual and political elite.

Overall conclusions

The growth in Islamic financial products, particularly home loans, is being driven by the very particular economic and political circumstances of contemporary Britain. Explanations of the phenomenon as being demand-led by an unchanging Muslim opinion are mistaken. This though is nothing new, the historical development of Islam has always been driven by the particular circumstances of time and place in which it was practised.

The enthusiasm of both government and banks for Islamic products appears to be more politically than economically driven. It is difficult to sustain a pure “invisible hand” argument when the economic situation of British Muslims is so mixed and the data used by banks so unreliable. The wider motivation to appeal to Muslims goes beyond economics. This fits in with one argument put forward by Heilbroner (1991). I have already referred to his suggestion that in a post-scarcity world the pursuit of self-interest is becoming less useful as an explanation of economic behaviour. He argues further that one consequence of this is that economic behaviour is becoming less predictable and less self-regulating. If people can no longer be trusted to pursue their own interest rigorously but are showing tendencies to forego the maximisation of financial advantage in order to advance a variety of ideological or philanthropic ends which they happen to favour, then government cannot assume that it can manipulate the market in a desired direction simply by creating conditions where

pursuit of self-interest will lead in this direction. It has to be more explicit in the pursuit of its own ideological ends, which means that economic decision making becomes more evidently political. There is scope to disagree about whether we are actually seeing this phenomenon in Britain at the present time, but this suggestion should at least give us pause.

The development of Islamic forms of house purchase loan has taken place during a sustained period of what estate agents like to call “buoyancy” in the British housing market. The level of property prices in relation to average salaries was for the greater part of the period of work on this study at an all-time high, and everyone who could has been trying to get a share of the profits involved in a steadily rising market. The incentives for banks to offer as many loans as possible and for customers to buy if they can possibly manage it have been very strong. This rising market to some extent protects the lenders against the consequences of default. The question must also be asked: do not the spectacular profits made by some home owners in recent years constitute a form of *riba*, in its original sense of an inordinately large increase in capital? In my own home town, house prices doubled in the two years from 2001-2003. During the same period, the waiting list for council housing also doubled. This cannot be regarded as being in line with the Islamic ideal of preventing some traders from making huge profits at the expense of the suffering of others. In the property market, money does indeed “merely make a circuit of the wealthy amongst you” (Quran 59.7). It remains to be seen how the development of Islamic house purchase will be affected if and when property prices fall back into a more sustainable ratio to salaries. A serious fall in house prices could well deter banks from developing more *shari'a* compliant schemes

The phenomenon of Islamic finance subverts the traditional argument about religion versus modernity. The encouragement of modern forms of Islamic finance is being used as a way to incorporate Muslims into the global economy and prevent the Muslim-majority world being an obstacle to the total globalisation of liberal capitalism and the financial markets. Far from representing a resurgence of religious obscurantism and cultural obstructiveness, it can be easily incorporated into the “neo-conservative” (or “neo-liberal”) project.

The rise of Islamic finance also subverts the argument about inflexible traditional cultures being hard to assimilate. If anything, it proves that there is no cultural tradition which cannot be assimilated by free-market liberal democracy. The giant fast-food chain McDonalds is sometimes regarded as a juggernaut of globalisation, imposing identical food products throughout the world regardless of local culture and sensibilities. Yet McDonalds India sells burgers without beef, in deference to Hindu tradition. If global capitalism can devise a burger without beef, it can surely devise a way to realise a return on investment without fixed interest.

I have indicated at several points throughout this work that the field of Islamic finance is developing very rapidly, and that the new and evolving nature of the phenomenon makes it difficult to offer more than tentative judgements about the present success and likely future direction of the financial products and services studied. It is my hope that the scene can be re-visited over the next few years by

myself or another researcher, in order to follow and further analyse their development. I would suggest the following key topics for analysis.

Firstly, and most obviously, it is very important to obtain hard data on the actual take-up of Islamic financial products. It is probable that the companies concerned will place obstacles in the way of obtaining this information, particularly if the response has been disappointing, but legal reporting requirements mean that it will eventually be possible to find these figures in the public domain. Second, a desirable extension of this would be a study employing a more ethnographic approach than this work has adopted, which would obtain “soft” data on the attitudes of British Muslims to financial matters through interviews. Third, a detailed study of the role of *shari’a* advisory committees is imperatively necessary. This should probably be done through case studies of several of the leading Islamic product providers. It should pay particular attention to ascertaining the extent of the advisors’ independence through examining their conditions of employment and the nature and sources of their remuneration. A corollary of this would be a more formal study than I have undertaken here of the connections between scholars who advise many different organisations, the social contacts and communication networks which link them. Fourth, it would be interesting to have some work on the relationships between Islamic financial activism and other forms of “ethical” finance and trading initiatives, both those inspired by non-Muslim faiths and those related to secular political convictions, in order to test my prediction that there will be increased convergence between them.

I will end with this quotation. “Economic philosophizing gains its ultimate fascination because its complex analyses of gain and loss are the vehicles for still deeper-lying dramas – morality plays, contests of power, and at some very profound level, the ultimate tensions of social bonding” (Heilbroner 1991 p.10). This truth was evident to the Prophet and his associates as they worked to create the first Islamic society in Medina. It is no less true in Britain, some fourteen hundred years later.

BIBLIOGRAPHY

Books, Reports and Journal Articles

Ahmed, Akbar S. 1992. *Postmodernism and Islam*. London: Routledge.

Ahmed, Akbar S., and Hastings Donnan, eds. 1994. *Islam, globalisation and post-modernity*. London: Routledge.

Ahmed, Leila. 1992. *Women and gender in Islam*. New Haven: Yale University Press.

al-Azmeh, Aziz. 1993. *Islams and modernities*. London: Verso.

Alexander, Claire E. 2000. *The Asian gang: ethnicity, identity, masculinity*. London: Berg.

Allievi, Stefano, ed. 2003. *Muslim networks and transnational communities in and across Europe*. Leiden: Brill.

Ameli, Saied Reza. 2002. *Globalisation, Americanisation and British Muslim identity*. London: Icas Press.

Ansari, Humayun. 2004. *"The infidel within": Muslims in Britain since 1800*. London: C. Hurst & Co.

Anwar, Mohammed. 1979. *The myth of return: Pakistanis in Britain*. London: Heinemann.

Appadurai, Arjun. 1996. *Modernity at large: cultural dimensions of globalization*. Minneapolis: University of Minnesota Press.

Arar, S.A. 1998. "Islamic banking: an overview." in *Financial strategy: course reader for B821*. Milton Keynes: Open University.

Ayubi, Nazih N.M. 1991. *Political Islam: religion and politics in the Arab world*. London: Routledge.

Babès, Leila. 1997. *L'Islam positif: la religion des jeunes musulmans de France*. Paris: Editions de l'Atelier.

- Barlas, Asma. 2002. *"Believing women" in Islam*. Austin: University of Texas Press.
- Barton, Stephen W. 1986. *The Bengali Muslims of Bradford*. Leeds: University of Leeds.
- Basit, Tehmina N. 1997. *Eastern values, western milieu: identities and aspirations of adolescent British Muslim girls*. Aldershot: Ashgate.
- Baumann, Gerd. 1996. *Contesting culture: discourses of identity in multi-ethnic London*. Cambridge: Cambridge University Press.
- . 1999. *The multicultural riddle: rethinking national, ethnic and religious identities*. London: Routledge.
- Benguigui, Yamina. 1997. *Mémoires d'immigrés: l'héritage maghrébin*. Paris: Canal Plus.
- Benthall, Jonathan, and Jerome Bellion-Jourdan. 2003. *The charitable crescent: politics of aid in the Muslim world*. London: I.B. Tauris.
- Board of Inland Revenue. 2004. "Explanatory notes on Finance Bill 2004."
- Bourdieu, Pierre. 1977. *Outline of a theory of practice*. Cambridge: Cambridge University Press.
- Bruce, Steve. 1996. *Religion in the modern world: from cathedrals to cults*. Oxford: Oxford University Press.
- Caeiro, Alexandre. 2004. "The social construction of sharia: bank interest, home purchase and Islamic norms in the West." *Die Welt des Islams* 44: 351-375.
- Cesari, Jocelyne. 1994. *Etre musulman en France: associations, militants et mosquées*. Paris: Karthala-IREMAM.
- . 1997. *Etre musulman en France aujourd'hui*. Paris: Hachette.
- . 2002. *La Méditerranée des réseaux*. Paris: Maisonneuve et Larose.
- Charlton, William, Tatiana Mallinson, and Robert Oakeshot. 1986. *The Christian response to industrial capitalism*. London: Sheed and Ward.

- Clark, Janine A. 2004. *Islam, charity and activism: middle class networks and social welfare in Egypt, Jordan and Yemen*. Indianapolis: Indiana University Press.
- Clarke, Colin, David Ley, and Ceri Peach, eds. 1984. *Geography and ethnic pluralism*. London: Allen & Unwin.
- Clarke, Colin, Ceri Peach, and Steven Vertovec, eds. 1990. *South Asians overseas: migration and ethnicity*. Cambridge: Cambridge University Press.
- Clarke, John, Nick Smith, and Elizabeth Vidler. 2005. "Creating citizen-consumers: inequalities and instabilities." in *Social Policy Review 17*, ed. M Powell, K Clarke and L Bauld. Bristol: Polity Press.
- Council of Mortgage Lenders. 2001. "Islamic mortgage finance."
- Davies, Howard. 2002. "Islamic finance and the Financial Services Authority." Financial Services Authority.
- Department of Trade and Industry. 2003. "Employment equality (religion or belief) (amendment) regulations."
- Durkheim, Emile. 1915. *The elementary forms of the religious life*. London: George Allen & Unwin.
- Eade, John. 1989. *The politics of community: the Bangladeshi community in East London*. London: Gower.
- Economic and Social Research Council et al. 2002. "After September 11: TV news and transnational audiences."
- Esposito, John L., and John O. Voll, eds. 2001. *Makers of contemporary Islam*. New York: Oxford University Press.
- Fardon, Richard. 1999. *Mary Douglas*. London: Routledge.
- Ferrari, Silvio. 2000. *Islam and European legal systems*. Aldershot: Dartmouth Press.
- Foot, Michael. 2003. "The future of Islamic banking in Europe." Financial Services Authority.

- Frank, Robert. 1988. *Passions within reason*. New York: Norton.
- Friedman, Milton. 1962. *Capitalism and freedom*. Chicago: Chicago University Press.
- Geaves, Ron. 1995. *Muslims in Leeds*. Leeds: University of Leeds.
- . 1996. *Sectarian influences within Islam in Britain*. Leeds: University of Leeds.
- . 1999. *The Sufis of Britain*. Cardiff: Cardiff Academic Press.
- Gellner, E. 1992. *Postmodernism, reason and religion*. London: Routledge.
- Gerholm, Tomas, and Yngve Georg Lithman. 1988. *The new Islamic presence in Western Europe*. London: Mansell.
- Gilroy, Paul. 1987. *There ain't no black in the Union Jack*. London: Hutchinson.
- Hall, Alvin. 2003. *Your money or your life*. London: Coronet.
- Halliday, Fred. 1992. *Arabs in exile: Yemeni migrants in urban Britain*. London: I.B. Tauris.
- . 2002. *Two hours that shook the world: September 11th 2001, causes and consequences*. London: Saqi Books.
- Heilbroner, Robert. 1991. *The worldly philosophers*. Harmondsworth: Penguin.
- Herbert, David E.J. 1996. *The common good in a plural society: Muslims, Christians and the public arena in Britain*. University of Leeds: unpublished thesis.
- . 2003. *Religion and civil society: rethinking public religion in the contemporary world*. Aldershot: Ashgate.
- Hervieu-Leger, Danielle. 1993. *La religion pour mémoire*. Paris: Cerf.
- . 1999. *Le pèlerin et le converti: la religion en mouvement*. Paris: Flammarion.
- Hiro, Dilip. 1991. *Black British, white British: a history of race relations in Britain*. London: Grafton.
- Hodgson, M.G.S. 1974. *The venture of Islam: conscience and history in a world civilisation*. Chicago and London: University of Chicago Press.
- Hoggart, Richard. 1957. *The uses of literacy*. London: Chatto & Windus.

- Hourani, Albert. 1962. *Arabic thought in the liberal age*. London: Oxford University Press.
- Huff, Toby E., and Wolfgang Schluchter, eds. 1999. *Max Weber and Islam*. New Brunswick: Transaction Publishing.
- Hussain, Serena. 2004. "An introduction to Muslims in the 2001 census." University of Bristol Department of Sociology.
- Hutton, Will. 2003. *The world we're in*. London: Abacus.
- Huxley, Elspeth. 1964. *Back street, new worlds: a look at immigrants in Britain*. London: Chatto & Windus.
- Inayatullah, Sohail, and Gail Boxwell, eds. 2003. *Islam, postmodernism and other futures: a Ziauddin Sardar reader*. London: Pluto Press.
- Inglehart, R. 1997. *Modernization and postmodernization: cultural, economic and political change in 43 societies*. Princeton: Princeton University Press.
- International Crisis Group. 2005. "Understanding Islamism."
- Jawad, Haifaa, and Tansin Benn, eds. 2003. *Muslim women in the United Kingdom and beyond: experiences and images*. Leiden: Brill.
- Jelen, Christian. 1991. *Ils feront de bons français: enquête sur l'assimilation des maghrébins*. Paris: Editions Robert Laffont.
- Joly, Danièle. 1995. *Britannia's crescent: making a place for Muslims in British society*. Aldershot and Vermont: Ashgate.
- Kalra, Virinder. 2000. *From textile mills to taxi ranks: experiences of migration, labour and social change*. Aldershot: Ashgate.
- Kepel, Gilles. 1997. *Allah in the West: Islamic movements in America and Europe*. Cambridge: Polity Press.
- Khosrokhaver, Farhad. 1997. *L'Islam des jeunes*. Paris: Flammarion.
- Klein, Naomi. 2000. *No logo*. London: Flamingo.

- Knott, Kim. 1992. *The changing character of the religions of the ethnic minorities of Asian origin in Britain: final report of a Leverhulme project*. Leeds: University of Leeds.
- . 1992. *The role of religious studies in understanding the ethnic experience*. Leeds: University of Leeds.
- Küçükcan, Talip. 1999. *Politics of ethnicity, identity and religion: Turkish Muslims in Britain*. Aldershot: Ashgate.
- Lawless, Richard I. 1995. *From Ta'izz to Tyneside: an Arab community in the north-east of England during the early twentieth century*. Exeter: University of Exeter Press.
- Le Bor, Adam. 1997. *A heart turned east*. London: Little Brown.
- Lee, Martha F. 1988. *The Nation of Islam: an American millennarian movement*. New York: Edwin Mellon Press.
- Lerner, D. 1958. *The passing of traditional society: modernizing the Middle East*. Glencoe, Illinois: Free Press.
- Lewis, Philip. 1994. *Islamic Britain*. London: I.B. Tauris.
- . 1996. *The function, education and influence of the Ulama in Bradford's Muslim communities*. Leeds: University of Leeds.
- Mandaville, Peter. 2001. *Transnational Muslim politics: reimagining the Umma*. London: Routledge.
- Mannan, M.A. 1986. *Islamic economics: theory and practice*. London: Hodder & Stoughton.
- Marechal, Brigitte, Stefano Allievi, Felice Dassetto, and Jorgen Nielsen, eds. 2003. *Muslims in the enlarged Europe: religion and society*. Leiden: Brill.
- Masud, Muhammad Khalid. 1990. "The obligation to migrate: the doctrine of hijra in Islamic law." in *Muslim travellers*, ed. Dale F. Eickelman and James Piscatori. London: Routledge.

- Mauss, Marcel. 1954. *The gift: forms and functions of exchange in archaic societies*. London: Coehn & West.
- McCloud, Aminah Beverly. 1995. *African American Islam*. New York: Routledge.
- McLoughlin, Sean. M., and Virinder S. Kalra. 1999. "Wish you were(n't) here? Discrepant representations of Mirpur in narratives of migration, diaspora and tourism." in *Travel worlds: journeys in contemporary cultural politics*, ed. R. Kaur and J. Hutnyk. London: Zed Books.
- Modood, Tariq. 1992. *Not easy being British: colour, culture and citizenship*. London: Trentham Books.
- Modood, Tariq, Richard Berthoud and Jane Lakey. 1997. *Ethnic minorities in Britain: diversity and disadvantage*. London: Policy Studies Institute.
- Muslim Council of Britain. 2002. *The quest for sanity*. London: Muslim Council of Britain.
- Naqvi, S.N.H. 1981. *Ethics and economics: an Islamic synthesis*. Leicester: Islamic Foundation.
- Nielsen, Jorgen S. 1995. *Muslims in Western Europe*. Edinburgh: Edinburgh University Press.
- . 1999. *Forms and problems of legal recognition for Muslims in Europe*. Birmingham: CSIC.
- . 1999. *Towards a European Islam*. London: Macmillan.
- Nonneman, Gerd, Tim Niblock, and Bogdan Szajkowski. 1996. *Muslim communities in the new Europe*. Reading: Ithaca Press.
- Norton Rose. 2003. "Islamic insurance briefing."
- Parekh, Bhikhu. 2000. *Rethinking multi-culturalism*. London: Palgrave.
- Peach, Ceri, Vaughan Robinson, and Susan Smith, eds. 1981. *Ethnic segregation in cities*. London: Croom Helm.

- Pedersen, Lars. 1999. *Newer Islamic movements in Western Europe*. Aldershot: Ashgate Press.
- Poulter, Sebastian. 1999. *Ethnicity, law and human rights: the English experience*. Oxford: Oxford University Press.
- Ramadan, Tariq. 1998. *To be a European Muslim*. Leicester: The Islamic Foundation.
- . 1999. *Muslims in France: the way towards co-existence*. Leicester: The Islamic Foundation.
- . 2003. *Western Muslims and the future of Islam*. Oxford: Oxford University Press.
- Ray, N.D. 1995. *Arab Islamic banking and the renewal of Islamic law*. London: Graham & Trotman.
- Rex, John. 1986. *Race and ethnicity*. Milton Keynes: Open University Press.
- Rex, John, and Tariq Modood. 1994. *Muslim identity: real or imagined? a discussion*. Birmingham: CSIC.
- Ridley, Matt. 1996. *The origins of virtue*. London: Viking.
- Rodinson, Maxime. 1977. *Islam and capitalism*. Harmondsworth: Penguin.
- . 2002. *Muhammad: prophet of Islam*. London: Tauris Parke.
- Ross, A., ed. 1989. *Universal abandon: the politics of post-modernism*. Edinburgh: Edinburgh University Press.
- Ruthven, Malise. 1990. *A Satanic affair*. London: Chatto & Windus.
- . 1997. *Islam: A Very Short Introduction*. Oxford: Oxford University Press.
- Said, E. 1978. *Orientalism*. New York: Pantheon.
- Saleh, N. 1986. *Unlawful gain and legitimate profit in Islamic law*. Cambridge: Cambridge University Press.
- Schmidt, Garbi. 2004. *Islam in urban America: Sunni Muslims in Chicago*. Chicago: Temple University Press.
- Sellick, Patricia. 2004. "Muslim housing experiences." Housing Corporation.

- Shaw, Alison. 1988. *A Pakistani community in Britain*. Oxford: Blackwell.
- Shepherd, John. 1998. "Islam." in *Encyclopedia of Applied Ethics*, ed. Ruth Chadwick: Academic Press.
- Siddiqi, M.N. 1981. *Muslim economic thinking: a survey of contemporary literature*. Leicester: Islamic Foundation.
- . 1983. *Banking without interest*. Leicester: Islamic Foundation.
- . 1983. *Issues in Islamic banking*. Leicester: Islamic Foundation.
- . 1985. *Insurance in an Islamic economy*. Leicester: Islamic Foundation.
- . 1985. *Partnership and profit-sharing in Islamic law*. Leicester: Islamic Foundation.
- Silverman, M. 1992. *Deconstructing the nation: immigration, racism and citizenship in modern France*. London: Routledge.
- Soysal, Yasmin Nuhoglu. 1994. *Limits of citizenship: migrants and postnational membership in Europe*. London: University of Chicago.
- Taji-Farouki, Suha. 1996. *A fundamental quest: Hizb al-Tahrir and the search for the Islamic caliphate*. London: Grey Seal.
- Talshir, Gayil. 2002. *The political ideology of Green parties*. Oxford: Palgrave.
- Temime, Emile. 1999. *France, terre d'immigration*. Paris: Gallimard.
- Tomassi, M., ed. 1992. *The new economics of behaviour*. Cambridge: Cambridge University Press.
- Turner, Brian S. 1994. *Orientalism, postmodernism and globalism*. London: Routledge.
- Usmani, Muhammad Taqi. 2002. *An introduction to Islamic finance*. Karachi: Maktaba Ma'ariful Quran.
- Vermees, Geza. 1973. *Jesus the Jew: a historian's reading of the Gospels*. London: Collins.
- Vertovec, Steven, and Ceri Peach. 1997. *Islam in Europe: the politics of religion and community*. Basingstoke: Macmillan.

- Vogel, Frank E. 1998. *Islamic law and finance: religion, risk and return*. Boston: Kluwer.
- Walvin, James. 1997. *The Quakers: money and morals*. London: John Murray.
- Warde, Ibrahim A. 2000. *Islamic finance in the global economy*. Edinburgh: Edinburgh University Press.
- Weber, Max. 1930. *The Protestant ethic and the spirit of capitalism*. London: Allen & Unwin.
- Werbner, Pnina. 1990. *The migration process: capital, gifts and offerings among British Pakistanis*. Oxford: Berg.
- . 2002. *Imagined diasporas among Manchester Muslims: the public performance of transnational identity politics*. Oxford: James Currey.
- . 2002. *Pilgrims of love: the anthropology of a global Sufi cult*. London: C. Hurst & Co.
- Werbner, Pnina, and Mohammed Anwar. 1991. *Black and ethnic leaderships in Britain*. London: Routledge.
- Werbner, Pnina, and Tariq Modood. 1997. *Debating cultural hybridity: multi-cultural identities and the politics of racism*. London: Zed Books.
- Westerlund, David, and Ingvar Svanberg, eds. 1999. *Islam outside the Arab world*. Richmond, Surrey: Curzon Press.
- Wheen, Francis. 2004. *How mumbo-jumbo conquered the world*. London: Harper Perennial.
- Wihtol de Wenden, Catherine, and Remy Leveau. 2001. *La bourgeoisie: les trois ages de la vie associative issue de l'immigration*. Paris: Editions CNRS.
- Williams, Raymond. 1961. *Culture and society 1780-1950*. Harmondsworth: Penguin.
- . 1965. *The long revolution*. Harmondsworth: Penguin.

- Wilson, Rodney. 1996. *Economics, ethics and religion: Jewish, Christian and Muslim economic thought*. London: Palgrave Macmillan.
- . 2003. "Parallels between Islamic and ethical banking." *www.islamonline.net*.
- . 2004. "Overview of the sukuk market." in *Islamic bonds: your guide to issuing, structuring and investing in sukuk*, ed. Adam Nathif and Thomas Abdulkader. London: Euromoney Institutional Investor plc.
- Yergin, Daniel. 1993. *The prize: the epic quest for oil, money and power*. London: Simon & Schuster.
- Zubaida, Sami. 2003. *Law and power in the Islamic world*. London: I.B. Tauris.

Periodicals

- British Muslims Monthly Survey [BMMS]* (1993 – 2002)
- Bolton Evening News* (www.thisisbolton.co.uk)
- Daily Telegraph* (www.telegraph.co.uk)
- Financial Times* (www.ft.com)
- Guardian* (www.guardian.co.uk)
- Independent* (www.independent.co.uk)
- Manchester Evening News* (www.manchesteronline.co.uk)
- Le Monde Diplomatique*
- Muslim Council of Britain Electronic Newsletter* (October 2001 – present)
- Muslim News* (July 1997 – present)
- New Horizons: the magazine of the Institute of Islamic Banking and Insurance* (May 2003 - present)
- Q-News* (1992 – present)
- The Wharf* (a free newspaper for Canary Wharf) (icthewharf.icnetwork.co.uk)
- Yorkshire Post*

Corporate Material or “Grey Literature”

Ansar Finance Newsletter, February 2004

Ansar Finance Terms and Conditions of Membership, no date

Ansar Housing Limited leaflet, no date

Fact finding for will writing and inheritance tax planning, 1st Ethical, no date

HSBC Amanah Finance, HSBC, no date

1st Ethical Newsletter, spring/summer 2004 and winter 2004/spring 2005

Interest-free Finance, Ansar Finance, no date

Islamic finance: halal property purchase, 1st Ethical, no date

Islamic Inheritance Tax Planning and Will Writing, 1st Ethical, no date

Preparing an Islamic inheritance strategy in light of the inheritance taxation laws of England and Wales, Sufyan Ismail for 1st Ethical, no date

Waqf: the door to future giving, Islamic Relief, no date

Web Sites

(These sites are listed as a general resource; references to specific website content are made within the text. Unless otherwise stated, all references to websites should be taken as valid at the end of June 2005.)

www.albalagh.net

www.alburaq.co.uk

www.amanahfinance.hsbc.com

www.aml.org.uk (Association of Muslim Lawyers)

www.ansarfinance.com

www.charity-commission.gov.uk

www.datamonitor.com

www.fsa.gov.uk

www.fyshe-crestar.com

www.fyshe-group.co.uk/crestar

www.halalmortgages.com

www.ihilal.com

www.iibu.com

indexes.dowjones.com

www.islamicawakening.com

www.islamic-bank.com

www.islamic-banking.com

www.islamic-foundation.org.uk

www.islamonline.net

www.lawreports.co.uk

www.mcb.org.uk

www.muslim-investor.com

www.muslimnews.co.uk

www.neighbourhood.statistics.gov.uk

www.nomisweb.co.uk

www.statistics.gov.uk/census2001

www.norton-rose.com

news.bbc.co.uk

www.parsoli.com

www.princes-trust.org.uk

www.salaam.co.uk

Personal Communications

Meetings

7 April 2004

Called in at office of 1st Ethical, spoke to directors' assistant and was given literature.

8 April 2004 Visited Ansar Finance and was given a presentation by Ajmal Saleem Ramzan.

Letters Received

11 December 2003 Karen Miller, Mortgage Development, Yorkshire Building Society

18 December 2003 Anouska Ho-Shing, Customer Relations, National Westminster Bank

30 December 2003 Dawn A. Williams, Mortgage Policy, Halifax Bank

31 March 2004 Andrew Hopkins of the Council of Mortgage Lenders (this was the cover letter for the paper *Islamic Mortgage Finance*)

14 April 2004 Consumer Contact Centre, Financial Services Authority (this was the cover letter for *Islamic Finance and the FSA* by Howard Davies and *The Future of Islamic Banking in Europe* by Michael Foot)

Emails Received

9 March 2004 M. Iqbal Asaria of the Muslim Council of Britain

22 March 2004 John Wooden of the Association of British Insurers

17 June 2004 Ms Z. Kasmani of Muslim Aid

1 February 2005 Debbie Nunn of the Charity Commission

22 March 2005 Mohammed Rayyan of Islamic Relief

17 June 2005 M. Iqbal Asaria of the Muslim Council of Britain

Verbal Communications

22 June 2005 Louise Richards, formerly of the University of Derby

8 July 2005 Jonathan Moody of the Association of Pensions Lawyers